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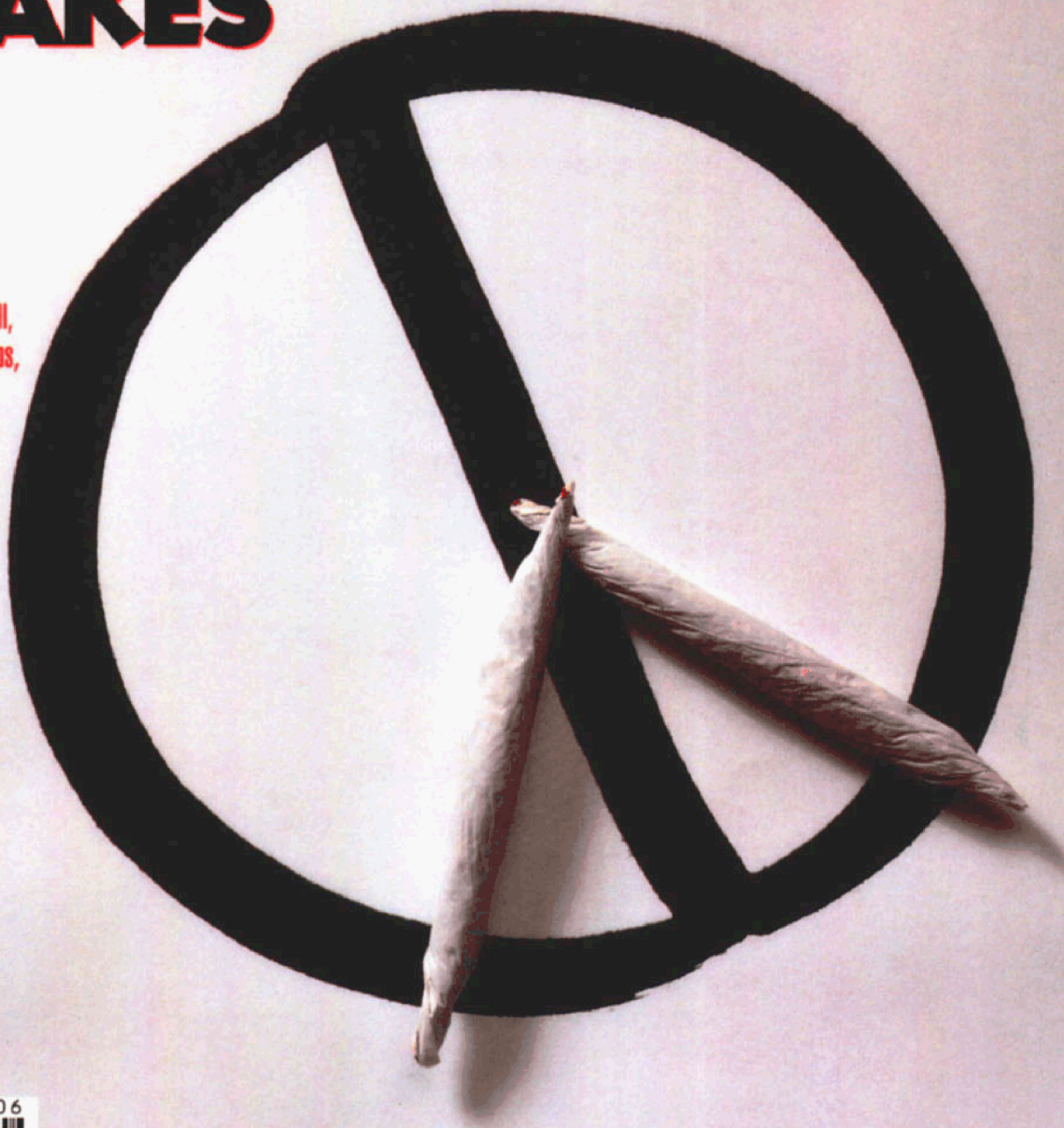

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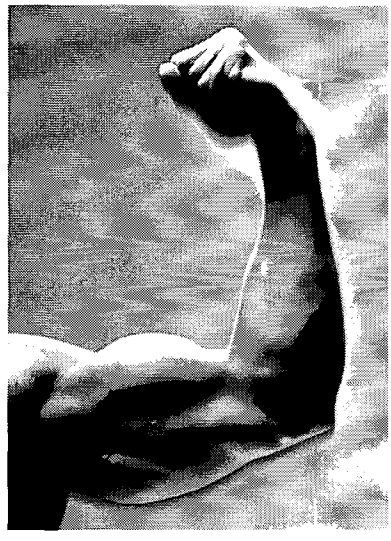
U.S. Manufacturing

Conventional View



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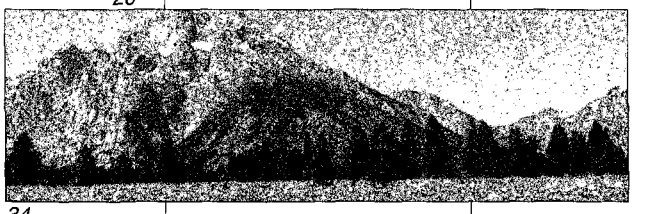

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FRIENDLY SKIES

VIRGINIA I. POSTREL

Usually it happens in the fall, as the summer specials disappear and airline seats once again are filled with business executives instead of squirming kids. Ticket prices rise, and the critics of airline deregulation fish their old arguments out of the back of the closet and thrust them yet again into public view. We must re-regulate the airlines, they say, because prices are too high, competition is putting airlines out of business, and traveling just isn't what it used to be.

As a fall ritual, this discussion is no more worrisome than football season or network premieres. But this year, the discussion started in February and stretched into the spring. This year, Congress demanded a National Commission to Promote a Strong and Competitive Airline Industry. And this year, the would-be re-regulators have friends in the Clinton administration. So this year, I'm worried.

Most discussions of re-regulating the airlines start by hiding the realities of what air travel used to be like. Regulation set a *floor* on prices—not a ceiling, as you might think listening to regulation advocates today. The airlines competed, but not on price. They offered frequent flights on new planes with sexy stewardesses. Big-city businessmen with expense accounts flew around on mostly empty jets, and their employers paid plenty for that privilege. There were no squirming children because families couldn't afford the fares.

That's dirty little secret number one. Secret number two is that the battle over airline deregulation is not, unfortunately, a battle about facts. It is a battle about attitudes—a struggle between favor-seeking producers and price-conscious consumers, between those who believe in bureaucracies and those who trust markets, between those who see air travel as an elite service and those who see it as mass transit.

The facts are, overwhelmingly, on the side of deregulation: Ticket prices, in real terms, are 20 percent lower than in 1978, when deregulation took effect. More than 90 percent of all passengers travel on discount fares. Travelers have saved some $10 billion a year. The airline work force has expanded by 25 percent, producing some 100,000 new jobs.

But still the arguments for re-regulation come, in all their contradictory glory. Some favor industry, some favor consumers, but all favor government control of prices and routes. And all pretend that the "ideology" is on the other side.

University of Denver law professor Paul Stephen Dempsey is typical. Writing in *The Wall Street Journal*, he declares: "Not to be confused by the facts, laissez faire theologians tenaciously point to consumer savings and declare victory. Never mind the tremendous losses suffered by investors, creditors and workers, or the opportunity costs squandered by imprisoning business travelers in canisters of aluminum and steel and flying them circuitously through constipated hubs, or that we Americans now fly the oldest fleet of aircraft of any G-7 nation, or that bankruptcies and concentration are growing."

Five assertions are crammed into this one paragraph, four into one sentence—too many to argue, or rebut, in a short space. But let's consider them briefly.

Dempsey argues that removing government-imposed price floors cost airlines money, hurting investors, creditors, and workers. *Of course.* When regulation artificially raises the price of something, the people who collect the money benefit; when the regulation is removed, they're hurt. But *other* investors, creditors, and workers—those in flourishing airline upstarts such as Southwest or, more importantly, in all the businesses that buy air travel—benefited.

Then there are the hubs. Thanks in part to those hubs, more than 55 percent of all passengers can choose from three or more airlines, compared to only 28 percent in 1978. Travelers from smaller cities, in particular, now have many more choices available. Flight frequency has increased greatly in most markets.

Nor are business travelers "imprisoned" with no option but a connecting flight through a hub. A recent MIT study of 500 routes between the 100 busiest airports found that travelers could book nonstop service on 27 percent in 1989, compared to only 17 percent before deregulation.

Dempsey laments the age of the U.S. air fleet. He doesn't explain why this is a fact or whether it is a problem. (The accident numbers don't suggest that planes are falling apart.) Competition does drive U.S. airlines to use their equipment more cost-effectively, and their larger fleets let them spread specialized maintenance costs over more planes. And unlike, say, government-owned Air France, U.S. airlines are not under pressure to keep government-subsidized Airbus turning out planes.

The crux of Dempsey's case is that airlines are going bankrupt and that the business is getting more concentrated, presumably threatening price increases. He, like many fans of regulation, seems to think bankruptcies are bad for two reasons: They indicate that companies are losing money, and they might reduce competition.

But these objections contradict one another. Price competition, combined with high costs, is what forces some airlines into Chapter 11. Dempsey doesn't like low-cost strategies, which involve cutting workers, hubs, and new aircraft purchases. So the

alternative would seem to be higher prices.

Which brings us back to the dirty little secret of airline regulation. It was all about high prices. And empty planes. And more trips by bus and car.

Despite his supposed concern for the consumer, Dempsey just doesn't like low prices. To him, as to many in the Clinton administration, businesses exist not to serve consumers but to serve the national glory. Low air fares, which benefit the public at large rather than identifiable companies, pale before the glamour of airlines.

As a "laissez faire theologian," I disagree. And, as a consumer, I take airline deregulation personally.

My family lives on the other side of the country. So do a lot of my friends and at least half the writers and editors I do business with. I remember when air fares were uniformly high and my family's hometown was served by only one airline, when lengthy trips required hour upon hour upon day of driving, when New York or California might as well have been the moon. Like many small-business managers, I have a small budget and a big need for travel. I am grateful for fine-print specials that offer cheap fares to people who plan ahead.

Plus, I spent the heyday of deregulation, 1982 and '83, shuttling between Philadelphia and Boston on airlines that no longer exist (and probably shouldn't, given their levels of safety and service). In those days, you could get a weekend fare of $90. Nowadays, you'd pay $109 in real dollars. Higher, yes, but still not bad. The pre-deregulation fare (in '83 dollars) was $115. Alfred Kahn was good to long-distance love.

Deregulation has been good to me, and to most Americans. It has opened the skies to the general public and brought the country closer together. We are the silent majority of travelers and, yes, we are quite willing to stay over Saturday night. ◼

GREAT EXPECTATIONS

JACOB SULLUM

In a recent panel discussion of privacy issues, I outlined how contracts can help people control the use of information about themselves. A credit-card applicant, for example, can seek assurances of confidentiality from his bank, which would then extract similar promises from the credit bureaus it deals with.

During the question-and-answer period, a member of the audience scoffed at the idea that his bank would ever agree to such conditions. I responded that banks would supply privacy protection if there was enough demand for it, since that added feature would help attract business. But I agreed that a bank is unlikely to change its policy for the sake of one customer. In that case, he would be free to decline the credit card. He did not, however, have an a priori right to a credit card on his own terms.

After the session, an observer complained that my answer was too negative. I should have emphasized market solutions more. I should have suggested ways that like-minded credit-card applicants could organize and thereby increase their clout as consumers, perhaps offering to pay a somewhat higher fee or interest rate in exchange for a privacy guarantee.

Maybe this critic was right. But his reaction illustrates a problem that free-market advocates face whenever they address consumer issues. If they emphasize that you can't always get what you want, they may be accused of taking a negative approach. But if they emphasize the wondrous bounty of the market, they may encourage unreasonable expectations. When the market is supposed to solve all problems, every unmet desire becomes a "market failure"—and an excuse for state intervention.

According to a recent *New York Times*/CBS News poll, Americans want a high-quality health-care system that costs less, covers more, and excludes no one. The market cannot provide that. Nor can the government, but it's going to try. This is the predictable result of unreasonable expectations, coupled with loose talk about "a right to health care."

Such talk is not limited to vital goods and services. Rep. Edward Markey (D-Mass.), for example, speaks of a right to free, over-the-air television. Many viewers seem to think they are also entitled to TV programming that is carefully tailored to their preferences. Hence the demands for regulation to ensure educational content or control sex and violence.

Now, market forces do work to meet at least some of these concerns. Even without the FCC's regulation of broadcast indecency, for example, the networks are unlikely to air *Little Anal Annie*, or even *Richard Pryor Live on the Sunset Strip*, in prime time. (Indeed, some critics would argue that network "censorship" is itself a market failure.) People with delicate sensibilities nevertheless take a risk when they turn on a TV or radio.

Consumers also take a risk when they enter a restaurant that permits smoking: They may be irritated by unpleasant fumes. Rather than accept this possibility, many people now insist they have a right to enjoy smoke-free dining in the restaurant of their choice.

Again, even without anti-smoking ordinances, the profit motive would lead restaurants to create non-smoking sections. Some, catering to the especially sensitive, would ban smoking entirely. But suppose you are allergic to cigarette smoke, and you live in a small town with just one restaurant, Smokin' Joe's Diner and Tobacco Parlor. Worse, what if there's no restaurant at all? Shouldn't the government force a restaurateur to open one? Otherwise, you won't be able to exercise your right.

At some point, we have to say, "Tough." These are the constraints of reality. The market provides goods and services better than any other arrangement, but it does not provide everything to everyone. The best solution is not the perfect solution. I'm sorry if that sounds too negative. ◼

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DISEMPOWERING AMERICA

RICK HENDERSON

These days, social-policy analysts on both the right and the left push "empowerment." Democrats David Osborne and Elaine Kamarck stress welfare reform and community-based policing; Republicans Jack Kemp and Jim Pinkerton back enterprise zones and want public-housing residents to own their homes.

Empowerment advocates seek to give individuals—even poverty-stricken ones—more control over their own lives. These advocates believe that if you treat people as adults they will make competent decisions, benefiting from their wisdom and learning from their mistakes.

Bill Clinton apparently disagrees. Despite the president's strong civil-rights record, and the genuine rapport he has developed with community leaders outside the civil-rights establishment, his policies clearly favor disempowerment. The Clinton agenda limits the choices individual Americans can make to those approved by union bosses and the bureaucrats in Washington, D.C., state capitals, and city halls.

Secretary of Labor Robert Reich, the most loquacious member of the cabinet (and the one Clinton lets speak freely in public), is the administration's most visible opponent of empowerment. Consider these Reich-backed proposals to empower institutions over individuals:

- Reich overturned a Bush administration plan to temporarily suspend the Davis-Bacon Act. Davis-Bacon requires construction workers on federal projects to make union wages. Non-union workers, many of them African-Americans or Latinos, rarely get these jobs. Bush officials believed suspending Davis-Bacon would help South Florida recover from Hurricane Andrew; Reich sided with the unions, upheld Davis-Bacon, and kept non-union workers unemployed.
- Reich also rescinded Bush's orders to implement the Supreme Court's *Beck* decision. *Beck* requires unions with government contracts to disclose how much of their dues they spend on lobbying and other political activities. When union members oppose these political uses, the Court says the members can get that portion of their dues refunded. By rescinding the *Beck* orders, Reich disempowered rank-and-file union members.
- Reich wants to boost the minimum wage by 10 percent and then have it rise at the same rate as inflation. With the administration's impending health-insurance premiums piled on to these higher wages, unskilled workers won't get jobs. Few employers could afford to hire them and still stay in business.
- Reich favors, and Clinton says he will sign, a law that bars companies from permanently hiring striker replacements, even if they're better employees than the ones who walked off the job.
- Unions want Congress to ban "industrial homework," which lets as many as 600,000 Americans knit sweaters and do other work at home instead of on a factory line. Some union bosses also seek a ban on home data entry and other forms of telecommuting. *Forbes* suggests Clinton and Reich won't oppose either ban.
- And Reich appointed a 10-member commission to update the labor laws drafted during the New Deal. *The Wall Street Journal* reports that "not a single member represents the nine-tenths of private workers and managements that aren't unionized." As the *Journal* notes, the Clinton brain trust praises "the German model of Big Business-Big Labor welfarism" that has stifled entrepreneurship there the past 15 years.

By siding with union bosses, bureaucrats, and other agents of disempowerment, Bill Clinton rejects the New Democrat agenda that led to his election. If his policies of disempowerment exacerbate our "recovery without jobs," the voters won't forget.

PETER DRUCKER
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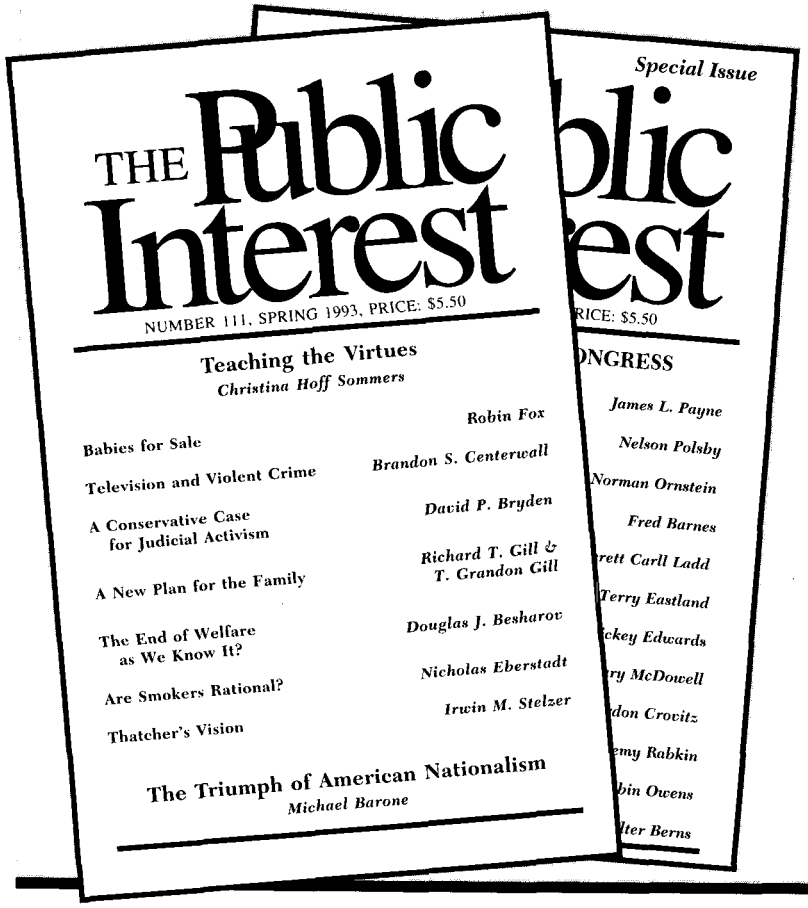

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LETTERS

The Final Days

I thoroughly enjoyed Ruth Shalit's "tribute" to the final, agonizing days of the Bush campaign ("What I Saw at the Devolution," Mar.). As a professional student of the American presidency, I found Shalit's crisp, lucid, and enlightening account of the Bush "devolution" almost without peer.

Yet, as an insider's account of what didn't go wrong with the Bush re-election effort, Shalit's essay could be read as an attempt to a) canonize the heretofore unrecognized accomplishments of Jim Pinkerton (such as they may be) or b) tilt responsibility for the stunning, and at one point unimaginable, defeat of George Bush to Bush himself, along with any number of his sullied advisers (Messrs. Darman, Baker, et al.).

Perhaps Pinkerton deserves credit for accomplishing something during the Bush administration. Beyond his obvious good sense in hiring Shalit, it's difficult to say precisely for what.

More troubling is the implication that George Bush lost the election solely or mainly because of Bush. "We got a weak product," said Baker, referring to President Bush, according to Shalit. True enough, George Bush was "a hard sell," especially against one candidate who refused to play Mike Dukakis and another who refused to play by the conventional rules of the game entirely. Dan Quayle was no Jack Kennedy and George Bush was no Ronald Reagan. Anyone who voted in the 1988 election understood *that* from the get-go.

Nevertheless, Bush did stand for something, Shalit's comments about a president and a campaign devoid of "ideas" notwithstanding. At the very least, Bush stood for the "legacy" of Ronald Reagan. Surely that counted for a lot of "something" in the minds of many attentive voters. What Shalit fails to acknowledge is that this "something" was rejected by the American voters as well. The 1992 presidential election was more than an ad-hominem referendum on George Bush (or Dick Darman), it was a referendum on the very "idea-driven conservatism" which so attracted Shalit to the White House immediately out of college.

To win in '96, Republicans will need more than a "better product," they'll need some better ideas. This lesson is implicit in Shalit's essay. Her account should also teach another lesson to future GOP campaign consultants: Never underestimate the intelligence or innate wisdom of the American electorate. They may be fooled by a Willie Horton once, but selling them again will be as difficult as marketing a candidate without vision or veracity.

Mark P. Petracca
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Actuarial Actuality

Based on faulty analysis, "The Medicare Monster" (Jan.) makes some unfair criticism of my performance as chief actuary of the Social Security Administration. It also contains a number of significant factual errors.

Steven Hayward and Erik Peterson state that Medicare cost $3 billion in 1966; the correct figure is $1.2 billion. Furthermore, the use of the 1966 figure is inappropriate because the benefits were effective on July 1 and there was considerable lag in making payments, so the figure is abnormally low. For the first full calendar year of operation, 1967, the total outgo was $5 billion.

The authors write that "the House Ways and Means Committee estimated that Medicare would cost only about $12

billion by 1990." The Actuarial Report of the Committee (dated July 30, 1965, and signed by me as "Actuary to the Committee") shows a figure of $9.1 billion for 1990 H.I. outgo but no long-range estimate for Supplementary Medical Insurance. So what is the basis for the $12-billion figure?

The article says the actual 1990 cost of Medicare was $107 billion; the true figure (including administrative expenses) was $111 billion, consisting of $67 billion for H.I. and $44 billion for SMI. One might say that the comparison should be for H.I. only—$9.1 billion estimated versus $67 billion actual. But several adjustments to the actual figure are necessary.

First, H.I. was significantly liberalized after 1965, principally by including long-term disabled persons under age 65 and end-stage renal dialysis cases. Based on data for 1989, 89 percent of the expenditures for H.I. were for those 65 or over. So the 1990 actual cost of H.I. for the aged was only $59.6 billion.

Second, the 1965 estimate was based on the assumption that wages would be level in the future (although hospital costs would increase somewhat more than wages)—for the reason that, if wages rose, so too would both payroll tax receipts and benefit outgo. The wage level in 1990 was 4.51 times a high as that in 1965. Thus, the 1990 actual cost of H.I. for the aged, expressed in constant 1965 wage dollars, was $13.2 billion ($59.6 billion divided by 4.51).

Accordingly, the proper analytical comparison of 1990 H.I. costs is $13.2 billion actual vs. $9.1 billion estimated (or a ratio of actual to estimated of 145 percent). Admittedly, this was a significant difference—but nothing like the almost sevenfold difference that the article indicates.

Mr. Hayward and Mr. Peterson refer to a quote from a discussion I had with House Ways and Means Committee Chairman Wilbur D. Mills at a hearing in 1963 as a "clash." Not so. I worked jointly for the Social Security Administration and the Committee on Ways and Means. This discussion was a friendly one, for the purpose of "building a record" as to why the assumptions should be more conservative.

Some of the estimated future costs of the H.I. program offered by Mr. Hayward and Mr. Peterson are too low, others too high. Based on the 1965 actuarial report to the committee, the tax rate shortly after 2000 under the optimistic estimate is 3.26 percent (in 2001), vs. Mr. Hayward and Mr. Peterson's 4.38 percent (which would not be reached until 2025). The ultimate tax rate under the pessimistic estimate is 23.11 percent (in 2070), vs. the mere 13.79 percent stated in the article. The tax rate in 2000 under the pessimistic estimate is 4.35 percent, as opposed to the authors' figure of 5.62 percent.

Robert J. Myers
Silver Spring, MD

Mr. Hayward and Mr. Peterson reply: It is difficult to know just how to respond to this peculiar letter, which in the end makes no judgment about whether the Medicare program is actuarially sound in the long run or about the many other serious issues that we raised. In fact, Mr. Myers tends to confirm our point in his last paragraph, where he notes that we may not have been pessimistic enough in our Medicare prognosis.

In the course of gathering research for our article, we found four or five different cost figures for every aspect and every year of the program. Most of the cost discrepancies Mr. Myers raises stem from the use of different government sources. But it is not necessary to bore readers with an endless numbers game. Even if we accept all of Mr. Myers's revisions, they do not controvert the argument that forms the basis of our "unfair criticism." Mr. Myers says nothing about the grossly mistaken assumptions concerning hospital utilization rates, about the huge subsidy required for the supposedly "pay-as-you-go" Medicare Part B program, or about the prominent role Medicare has played in perverting the entire health-care marketplace and fueling the inflation of health-care costs.

On this last point, we think Mr. Myers indulges in some revisionism with his parenthetical note about the assumption that "hospital costs would increase somewhat more than wages." All of the reports from the early 1960s, and Mr. Myers's statements to the Ways and Means Committee, confidently (and wrongly) predicted that hospital costs would not rise faster than wages over the long run.

We did not mean to imply that Mr. Myers himself bears the primary responsibility for this debacle. If this is what he means by "unfair criticism," then we offer a mild apology. The main problem lies with the politicians and policy makers who do not understand the inherent limitations and perverse effects of massive government spending programs like Medicare. Perhaps we shouldn't attach blame to the actuaries, but on the other hand, Mr. Myers's inconclusive letter is a good example of why politicians and policy makers don't learn any lessons. And it stands in sharp contrast to the warnings of Roland King, his successor at the Health Care Finance Administration.

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Privilege or Protection?

Thomas Hazlett may be right that a boycott of Colorado is a poor tactic for fighting Amendment Two ("Queer Tactics," Mar.). But Amendment Two itself is very wrong and threatens fundamental liberties.

Mr. Hazlett writes: "If the Colorado measure means that competent homosexuals will be 'outed' from city jobs by Baptist preachers with flocks to excite, then it's wrong. But if it succeeds in limiting a gay professor's rights regarding, say, wrongful termination to those which I enjoy, then I favor it. Amendment Two looks pretty evenhanded to me, and I think that it aims at the latter more than the former."

Amendment Two does not in any way limit gays to the rights that straights enjoy. It does quite the opposite. The equal-rights laws in Denver, Boulder,

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LETTERS

Aspen County, and Telluride provide legal protection on the basis of "sexual orientation." Sexual orientation is understood in all of those laws to include heterosexuality. Therefore a person could not be denied employment in a gay restaurant on the basis of being straight, any more than employment could be denied on the basis of race.

Amendment Two prohibits laws that provide legal protection to homosexuals and bisexuals, but it deliberately excludes heterosexuals. Amendment Two creates special rights of employment and accommodation for heterosexuals that cannot be enjoyed by gay men, lesbians, or bisexuals. Further, gay employees who feel they have been wrongfully terminated in violation of a Colorado company's employment-policy handbook, part of a binding legal contract of employment, would have no legal recourse. The courts would be constitutionally closed to hearing such a case.

According to the *Denver Post*, "many Coloradans who voted for Amendment 2 said they do not want to discriminate against gays, but they do want to prohibit homosexuals from receiving quotas or other preferences that have been given to other designated minority groups. Most gays themselves agree, saying they never have sought quotas or preferences."

Affirmative-action programs do not make sense for gay men and lesbians. As sexual orientation has no visible traits, imposing quotas would require the public disclosure of every person's sexual orientation, a gross violation of basic privacy. And since gays, lesbians, and bisexuals are in every occupation at every level, preferences are not appropriate anyway. All that is desired is the right to equal treatment in employment, housing, and accommodation without regard to the gender of one's partner.

Under Amendment Two, I can be denied service in any restaurant, hotel, store, or public transportation system. Gay men, lesbians, and bisexuals can be fired without additional grounds, evicted from their apartments, and prevented from petitioning the government, including the judicial, legislative, and executive branches, for a redress of grievances. The same is true for heterosexuals who are perceived to be gay or lesbian.

Mr. Hazlett writes: "The march of the fundamentalists is fueled by the hostility most Americans feel not for homosexuality but for *in your face* homosexuality." He is quite wrong. The history of gay rights has been one of constant attack by a society enmeshed in ignorance, fear, and hatred. The gay-rights movement, led by radical activists, has been successful in reducing the levels of ignorance, fear, and hatred to a point where open, aggressive hostility is now limited mostly to the fundamentalists.

Mr. Hazlett should have stayed on the subject of tactics in securing equal status, not on whether equal status and acceptance is the goal. There is no other goal.

Robert J. Summersgill
Silver Spring, MD

HOMOPHOBIA IS WOVEN into the fabric of this society in the areas of religion, education, government, business, and media. Because of this, the majority of gay and lesbian people come face to face with some level of homophobia every minute of every day of their lives.

Hostility against gay and lesbian people is much more complex and "in your face" than Mr. Hazlett suggests. It ranges from isolation and abandonment to verbal and physical attacks to death; it can take place privately or publicly. The perpetrator can be anonymous, a total stranger, or someone that we know and trust, like parents, family members, associates, counselors, teachers, friends, or religious leaders.

To suggest that gays and lesbians are responsible for the violence that is perpetrated against them is irresponsible and inaccurate. Many people experience anti-gay violence because they are *perceived* to be gay or lesbian. How does Mr. Hazlett explain this?

The "special status" that gays and lesbians desire is the very same status that heterosexuals currently enjoy: the legal, religious, and social recognition of relationships with regard to marriage, tax status, guardianship, adoption, and insurance matters; the legal right to engage in consensual sexual activity; the ability to serve in the military; protection from

discrimination with regard to sexual orientation in housing, employment, public accommodation, human services, health care, and education. A double standard does indeed exist, and heterosexuals are the beneficiaries of that standard.

Bradley R. Koogler
Columbus, OH

Mr. Hazlett replies: As I wrote, the consequences of Amendment Two are difficult to predict, but Messrs. Summersgill and Koogler spend little time on the subtleties. Mr. Summersgill suggests, quite implausibly, that a repeal of local gay-rights ordinances would strip away basic civil liberties, including the right of contract. He further asserts that affirmative action for homosexuals is impossible due to the "outing" it would entail. He fails to understand the ad-hoc nature of American law: Any contingency-fee attorney can file an affirmative-action suit, arguing either that professed homosexuals are underrepresented or that the working environment is so hostile that homosexuals are afraid to emerge from the closet.

Mr. Koogler asserts that homophobia is woven into the fabric of society. He may well be right. Sadly, local ordinances will be very ineffective in shaping up "parents" or "anonymous perpetrators." In condemning state-mandated discrimination against gays—as I did in my article—Koogler appropriately abandons the "special status" argument. The "equal protection" logic driving Amendment Two can and should be used by the gay lobby to frontally attack this body of discriminatory law, not to inflame the straight mainstream with pleas for minority privilege. (Those responsible for the resulting violence will be its homophobic perpetrators—but the victims will surely be gay.)

Correction: If you were a bit confused by the chart in our May issue's Trends section, it isn't your fault. The headings to the columns got transposed. The correct column headings are (from left to right) costs paid out of pocket; costs paid by private insurance; costs paid by others; costs paid by government.

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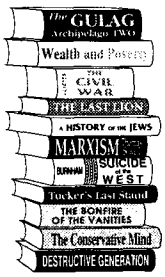

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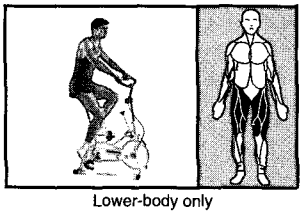
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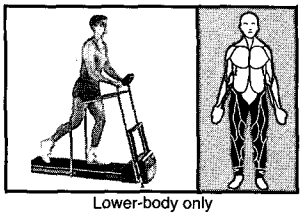
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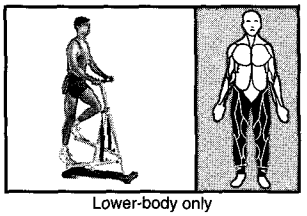
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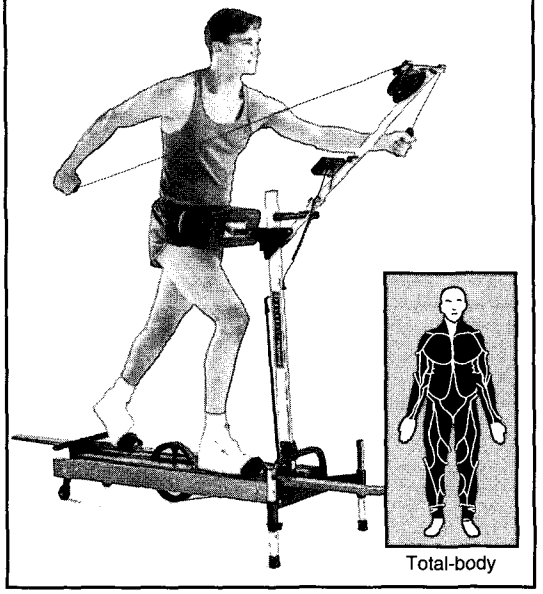
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Prescription for Savings

As the Food and Drug Administration loosens its hold on prescription drugs, Americans increasingly are medicating themselves with products they buy over the counter. A recent study by the consulting firm Kline & Company finds they're saving some $10 billion a year by avoiding extra insurance costs, doctor's appointments, and time lost from work.

Hydrocortisone, used to treat minor skin irritations, and antihistamines such as chlorpheniramine are just a few of the more than 400 drugs switched from prescription to over-the-counter status in recent years. Drug companies are expected to ask the FDA to switch an additional 70 or so drugs, including the popular sinus medication Seldane and a number of ulcer drugs, within the next few years.

In a 1983 paper in the *Journal of Health Economics*, MIT economist Peter Temin estimated that the economic benefits of making hydrocortisone available over the counter "exceeded the costs by over $200 million in 1980 and $400 million in 1981."

The switch also relieved discomfort that might otherwise have gone untreated: The first year hydrocortisone was available over the counter, non-prescription sales were about double the prescription sales, which remained about the same as the previous year's. Temin concluded that "the switch apparently allowed a new class of consumers to use hydrocortisone."

Because prescription drugs are closely monitored by drug companies and health professionals, their effectiveness and safety are well documented before they are switched to over-the-counter status. Nonetheless, groups such as the American Pharmaceutical Association still worry about consumers medicating themselves without supervision. They have proposed a third class of drugs between prescription and over-the-counter, similar to categories in countries such as Canada, France, Germany, and Switzerland.

Drugs in this third class would not require a prescription but would be available only from a pharmacist, who would offer guidance about drug interactions and side effects. If no unforeseen side effects were reported by pharmacists after several years, the drug would be made available over the counter.

The FDA and the Nonprescription Drug Manufacturers Association oppose the idea of a three-class system. The NDMA's senior vice president, Jack Walden, told the *Tucson Citizen* that a third class of drugs would be "anti-consumer, anti-competitive, anti-convenience."

Although this proposal would not give customers complete autonomy, it might give them more freedom than the current system by increasing access to drugs that would otherwise have been available only through a doctor. And, if drugs in the third class are eventually moved to over-the-counter status as planned, customers may still consult with pharmacists. People act responsibly when it comes to self-medication, notes *The Economist*, because "after all, the bodies they are treating are their own."

—Elizabeth Larson

Taxing Effort

Americans already suffer the highest tax burden in U.S. history, but President Clinton has proposed a massive tax increase: $245 billion over the next five years. A big chunk of this new revenue will be produced by a broad energy tax based on British thermal units (BTUs). A BTU is the amount of energy required to heat a pound of water one degree Fahrenheit when the water is at 39.2 degrees. Different forms of fuel have different costs per BTU.

Despite Clinton's pledge to tax the rich, a BTU tax, like most energy taxes, will fall disproportionately on lower-income earners. If Clinton's plan is enacted, people earning under $10,000 annually will pay five times more, as a percentage of their income, than those earning over $50,000.

Clinton's BTU Tax

FAMILY INCOME	AVERAGE ANNUAL BTU TAX AS A % OF INCOME
Less than $10,000	1.72%
10,000-20,000	0.93
20,000-30,000	0.71
30,000-40,000	0.56
40-000-50,000	0.49
More than $50,000	0.32

Source: The Tax Foundation

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- **J** **Salvador DeMadariaga:** *The Myth of Disarmament* (24 min.)
- **K** **Indra Devi:** *Beginning Yoga* (50 min.)
- **L** **Joachim Fest:** *Hitler: A Personal View* (55 min.)
- **M** **Erich Fromm:** *To Have or to Be: The Nature of the Psyche* (56 min.)
- **N** **Robert Frost:** *An Evening with Robert Frost* (55 min.)
- **O** **Buckminster Fuller:** *Twentieth-Century Renaissance* (55 min.)
- **P** **Thor Heyerdahl:** *Waters of the World* (58 min.)
- **Q** **Sir Edmund Hillary:** *Nothing Venture, Nothing Win* (55 min.)
- **R** **Joseph Mazzeo:** *The Idea of Progress: Science and Poetry* (46 min.)
- **S** **Ashley Montagu:** *The Nature of Human Nature* (48 min.)
- **T** **O. Hobart Mowrer:** *How to Talk About Your Troubles* (37 min.)
- **U** **R. Ornstein & D. Galin:** *Our Two Brains: Rational & Intuitive* (56 min.)
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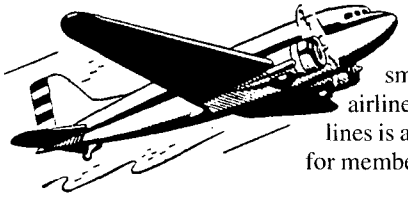
BALANCE SHEET

Assets

Commercial Break. Commercial speech, often denied constitutional protection, gets a boost. By a 6-to-3 vote, in *Discovery Network v. Cincinnati*, the Supreme Court says government restrictions on billboards or newspaper racks must promote a well-defined state interest. In a separate opinion, Justice Harry Blackmun says commercial speech deserves the same aggressive protection as political speech.

Wasted Days. Over Al Gore's objections, the $160-million, high-tech waste incinerator in East Liverpool, Ohio, opens in April. (See Balance Sheet, Mar.) *The New York Times* suggests two reasons the veep lost: A federal court ruled that the incinerator posed few health threats, and the incinerator's original investor, Little Rock's Jackson Stephens, gave big bucks to the Clinton campaign.



Plane or Filtered? How to beat the federal smoking ban on commercial flights: Start your own airline. Melbourne, Florida–based Smokers Express Airlines is a private club that plans to operate scheduled flights for members only. Passengers will get free in-flight smokes.

Going South. Privatization gets a Latin beat. Venezuela, which nationalized its petroleum industry in 1976, lets Shell, Exxon, and Mitsubishi purchase two-thirds of a $3-billion natural-gas project. And Argentina contracts its state-owned train service to foreigners: commuter rail in Buenos Aires to three companies and long-distance freight to six.

Liabilities

EGGed On. With tensions rising in Bosnia, Somalia, and Russia, and only one of his 45 deputies in place, Defense Secretary Les Aspin takes one week off to get a pacemaker. Pentagon nominations lagged, says *The Washington Post*, because Bill Clinton couldn't find enough EGGs—candidates who met his ethnicity, gender, and geography quotas.

Tube Boob. Wile E. Coyote—out of work? Acting Federal Communications Commission Chairman James Quello wants the feds to regulate violence on TV. "If the First Amendment rights conflict with the public interest," Quello tells *Electronic Media*, "the public interest should prevail."

Taxing Times. Sen. Fritz Hollings (D-S.C.) proposes a 5-percent value-added tax, partly to fund health care. (See "Consuming Debate," Dec.) "Let us be done with the myth that we can tackle the deficit strictly by cutting spending," writes Hollings to his colleagues. "This is nonsense." A VAT may fly: Hillary Clinton won't allow taxes on health benefits, and moderate senators may nuke her husband's other levies.

Without a CLU. A jury convicts Minnesota utility employee Dennis Richie of sexually abusing his daughter, Denise. Denise turns around and sues...her mother. Denise wins a $2.4-million judgment from the family's insurance company. The company won't compensate Denise for Dad's intentional crimes, but a jury can find Mom "negligent" and make Denise rich. *Forbes* reports that such "domestic tort" cases try "not only to punish wrongdoing, but to find somebody—anybody—with money to pay the victim."

—Rick Henderson

Retiring Plans

In 2010, policy makers now preoccupied with health care will be worrying instead about a shortage of retirement savings, warns Larry Zimpleman, vice president of the American Academy of Actuaries.

A recent AAA report finds that government red tape is encouraging many businesses to eliminate their retirement programs. In a survey of 1,084 companies that canceled defined-benefit pension plans (those funded by tax-deductible contributions from employers) between 1988 and 1990, about half said they did so due to the burdens of regulation: excessive compliance costs, complex rules, frequent changes in requirements.

Fewer than 40 percent of those companies replaced their defined-benefit plans with a 401(k) or other employee-funded pension plans, leaving many workers without the opportunity to save for retirement through the office.

Businesses with fewer than 25 employees have suffered the most from pension regulations. At least 50,000 such companies have ended their defined-benefit pension plans since 1988, the AAA reports, and most will not offer alternative plans. Nearly 60 percent of the small businesses cited regulations as the reason for dropping their pension plans. The 1987 Omnibus Budget Reconciliation Act, for example, reduced the amount companies are allowed to contribute per employee.

Larger companies complained most frequently about a provision of the 1986 Tax Reform Act that prohibits employers from offering different pension deals to different workers. Large firms also cited the high premiums they must pay to the Pension Benefit Guaranty Corporation, the federal agency that insures pensions.

"With the retirement of the baby boomers—the majority of whom do not have adequate money saved—only two decades away, we are looking at a very serious problem," says AAA Executive Vice President Jim Murphy. The AAA is calling for a moratorium on new pension-plan regulations to help stem the flood of cancellations.

—Elizabeth Larson

Stern Punishment

"The closest I came to making love to a black woman was, I masturbated to a picture of Aunt Jemima."

Believe it or not, that's a $20,000 joke. It's one of 34 excerpts from the *Howard Stern Show* for which the Federal Communications Commission has charged radio stations a total of $705,000.

In October, less than a week after it rejected a challenge to fines stemming from Stern's 1990 Christmas show, the FCC imposed $105,000 in new penalties on KLSX-FM in Los Angeles for shows that aired in 1991. Seven weeks later, the commission imposed a record $600,000 fine on Infinity Broadcasting, owner of three stations that carry Stern's show, for the same material.

In the wake of this onslaught, Greater Media Inc., owner of KLSX, admitted in March that it had started to edit the *Howard Stern Show* for the station's rebroadcast, cutting out the parts thought most likely to offend listeners and the FCC. "We wish to avoid further complaints to the FCC during the pendency of the litigation," Tom Milewski, Greater Media's executive vice president, told the *Los Angeles Times*.

Citing the prospect of such self-censorship, a coalition of broadcasters and civil libertarians has challenged the FCC's regulation of broadcast indecency in federal court. The coalition, similar to the one that defeated a 24-hour ban on broadcast indecency last year, argues that the commission's procedure for imposing indecency penalties violates the Fifth Amendment's Due Process Clause and the First Amendment "by establishing a system of administrative censorship while denying broadcasters prompt administrative adjudication and judicial review."

The coalition's complaint, filed in February, notes that FCC action against stations accused of broadcast indecency can drag on for more than a year before the commission makes a final determination. Furthermore, because obtaining judicial review is so difficult, only one case has ever reached a court.

Meanwhile, the commission may cite pending cases as aggravating factors in setting new penalties. The FCC has also been known to threaten further action, including license revocation, if broadcasters do not change their programming.

The complaint argues that the uncertainty created by this enforcement process chills speech and may affect the value of broadcast properties. It asks the U.S. District Court in Washington to order the dismissal of all pending indecency fines and to enjoin the FCC from pursuing new cases under the current procedure.

—Jacob Sullum

Wasteful Ways?

"The United States has 6 percent of the world's population but uses 25 percent of all the energy." In fact, the U.S. figure is 24 percent and shrinking, but never mind. Green groups and politicians cite this factoid any time they want to make Americans feel guilty for our wasteful ways. But a study of comparative energy efficiency, released in March by the Global Climate Coalition, a business group based in Washington, D.C., suggests that Americans might not be such profligate energy users after all.

The report, prepared by the Washington consulting firm EOP Group, compares energy efficiency among seven industrial countries (the United States, Great Britain, France, Germany, Japan, Canada, and Italy) from 1970 to the present. Because comprehensive data don't exist for all areas, the study compares the biggest energy users in three categories: transportation (measuring automobile consumption), residential (home heating), and industrial (manufacturing).

Using such yardsticks as energy consumption per unit of gross domestic product, the study concludes that Americans indeed consume more energy than residents of other industrialized nations. Overall energy consumption, however, may not accurately reflect how efficiently that energy is being used.

For instance, U.S. residential energy use per capita is 1.5 times higher than in Germany and 3 times higher than in Japan. But the average American home is twice as large as those elsewhere, and more of our homes have central heating (only 6 percent of Japanese dwellings have central heat), which both boosts energy use and makes our homes comfortable places to live. Adjusting for differences in climate, dwelling size, and types of fuel, only Japanese residents use less energy than Americans.

And European and Japanese transportation energy efficiency is actually declining. Car owners in Japan and Europe are moving away from minicompact cars (1.5-liter engines or smaller) and buying cars with larger engines that get poorer gasoline mileage. American consumers are also buying fewer minicompacts, but they're not buying full-size models, choosing compacts and mid-size cars instead. From 1973 to 1988, average U.S. new-car fuel economy has improved by nearly 5 percent a year, almost double the gains elsewhere.

While each country's manufacturers have reduced their energy intensity (in thousands of BTUs per dollar of finished product) since 1971, U.S. firms have cut their energy intensity the most, by 50 percent. Japan cut energy intensity 49 percent, Germany 33 percent.

Americans use 30 percent less energy per unit of GDP than in 1970, a significant efficiency gain compared with our competitors. And most of Americans' "excess" energy use takes place because the continental United States is a huge land mass with a scattered population.

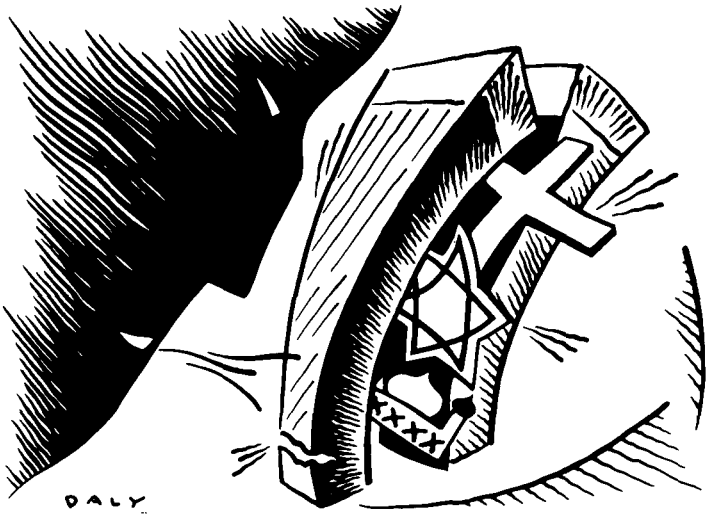
The report concludes that government policies ostensibly designed to enhance energy efficiency should be based on their own economic merits, not on the notion that the United States needs to "catch up" with some other country.

—Rick Henderson

GOOD WACKOS, BAD WACKOS

BY TODD SEAVEY

Seeing a man in Waco, Texas, claim to be Christ and lead his gun-toting followers into battle with police in the same month that zany Muslims bombed the World Trade Center, people were bound to discuss religious fanaticism in general. The tricky part—for people in a society that is slowly forgetting how to use private property and individual rights to demarcate the limits of permissible behavior—is figuring out what kinds of fanaticism to tolerate.



The issues of religious fringe groups and the erosion of rights came together unexpectedly in my life recently when I noticed followers of World Pastor Tony Alamo handing out pamphlets a few blocks from my apartment. The pamphlets revealed Pastor Alamo's views on God and his contention that the United Nations, the U. S. justice system (which has been harassing him), and the Third Reich are/were Vatican-run conspiracies. Alamo counts himself among the many opponents of the U.S. government's "Catholic, humanist/socialist, new world order, Catholic political goals [sic, I guess, unless the second one's for emphasis]."

But wait! This isn't just another conspiracy theorist. Mixed in with the religious content in the pamphlet are arguments that the U.S. government has overgrown its intended constitutional limits, defended with references to Thomas Jefferson, the Federalist Papers, and even 19th-century anarchist Lysander Spooner.

As a believer in limited government, I was intrigued and went to a meeting of Pastor Alamo's followers to learn more.

What I learned, of course, was that many religious meetings are among life's substitutes for group therapy, which is in turn a substitute for talking to your buddies about what a rough week it's been. Nonetheless, after various testimonials about how God had saved virtually everyone present from drugs and alcohol, I prayed with the gathering, and according to one member I am now "saved," which was surprisingly easy.

It would be tempting to pretend to have no kinship to these people now that I'm safely back home, but I think every person concerned about individual rights would do well to show his solidarity with the odd fringe-types of the world.

For instance, have you noticed how often religious kooks who end up in a cabin with a hunting rifle and a lot of canned goods, shouting threats at state troopers, are being hounded for reasons that many defenders of limited government would consider unjust? They're often trying to escape tax collection, gun registration, anti-bigamy laws, and the like.

When these sorts—not so different from the Waco guy—are lumped together with bombers, it blurs the distinction between wackos who initiate violence and wackos who are just peacefully wacky.

The importance of the distinction is easily overlooked if society doesn't see individual rights as crucial dividing lines anyway. A recent broadcast of ABC's *Nightline* provided a good example of the difficulties that arise when people attempt to come up with social-conflict resolutions without a context of strict individual rights.

Host Ted Koppel suggested incidents like those at Waco and the Trade Center may be the result of the fear police feel of stepping on the First and Second Amendments. His introduction to the night's debate referred to the two freedoms coming into conflict with each other, but everything else he said implied they're both hindrances to law enforcement, with the Second being particularly outdated.

Dr. Chris Hatcher of the University of California at San Francisco noted that human sacrifice is forbidden even as an expression of religious freedom and concluded that we have always recognized that "social need" can outweigh constitutional freedoms. It might have been simpler to conclude that the illegality of human sacrifice shows one person's rights don't permit him to violate another's. Using "social need" as a criterion introduces vagueness into the law, inviting battles over what constitutes a social need and who is to judge.

Scott Appelby of the AAAS Fundamentalism Project rightly noted that peaceful competition between sects in a stable civil society is healthy, but that there is danger when a group uses either state power or random violence to impose its blueprint on society.

It should be no surprise that people in today's philosophical climate are totally at sea when faced with a social problem like religious fanaticism. When clear, simple, individual rights–based rules are no longer used to decide conflicts, Americans are all put in the position of collectively crafting a (messy) blueprint for society. Will we try to keep out fanatical immigrants? Let them in but regulate their speech? Prevent groups like the Branch Davidians from owning guns? How about Pastor Alamo and company—not to mention me?

Todd Seavey is a writer in New York City.

TOM DALY

A Feast of Freedom

"Liberty is a Glorious Feast." —Robert Burns

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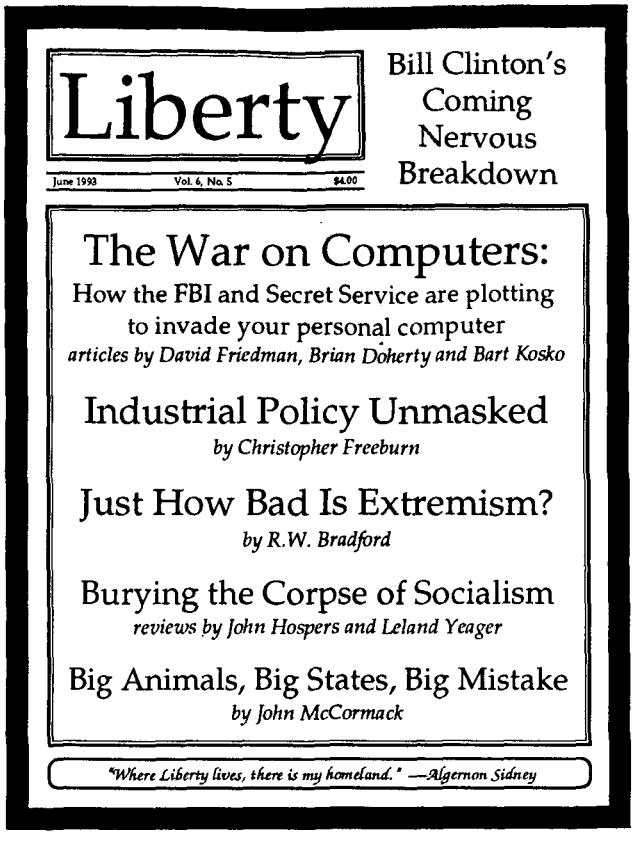
Loren Lomasky defends salsa in its battle with catsup and wonders why Paul Harvey sells libertarian ideas so much better than Andre Marrou;

Sandy Shaw and *Durk Pearson* tell how you can profit from Bill Clinton's upcoming nervous breakdown.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June 1993
Vol. 6, No. 5
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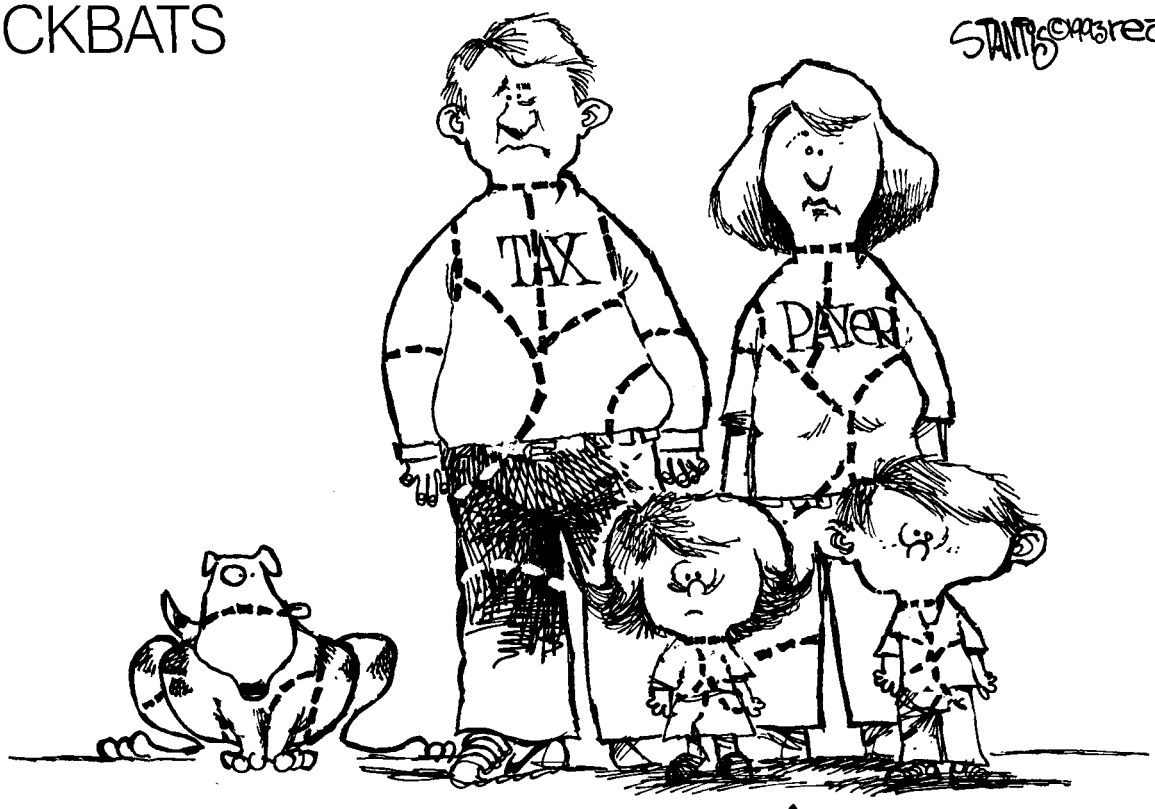

AMONG PRESIDENT CLINTON'S CUTS...

SCOTT STANTIS

YES, THANK GOD THEY GOT THAT PACEMAKER IN YOU BEFORE IT WAS TOO LATE. A BIT LONGER AND... WHO KNOWS?.. OUR NEW HEALTH CARE PLAN MIGHT HAVE KICKED IN.
ASPIN
BOK REASON

CHIP BOK

The Maharishi Mahesh Yogi, onetime guru to the Beatles, has offered to send emissaries to Broward County, Florida, to reduce crime by emitting harmonious vibrations. Oh, and he'll charge only $47 million annually for the service.

Who says Congress doesn't listen to voters? Philip Morris Cos. recently asked smokers to call their representative and voice their opinions on a proposed hike on the tobacco tax. The legislators responded immediately to the deluge of calls. They had their aides tie up Philip Morris's fax numbers with junk mail.

Speaking of phone calls, legislators in West Virginia were flooded with calls from fishermen protesting a bill that would ban stalking. The callers seemed to be somewhat reassured when they found out that the bill would ban the harassing and hunting of humans, not the stocking of fish ponds and streams.

Meanwhile, no one raised a voice when West Virginia lawmakers required that all state marriage licenses now be embossed with warnings against spousal abuse and violence. Next? Maybe warnings against forgetting one's anniversary or promising to take out the trash and then not doing it.

The Indiana University chapters of the Sigma Alpha Mu fraternity and the Kappa Kappa Gamma sorority have learned what louts they are. During a student festival the two groups combined to present a play set in a laundry where the clothes come to life. To create the illusion that the clothes were moving about, the students used an old theatrical trick, blacking out the actors' faces and hands with makeup. But the effect proved too subtle for the campus's black activists. They denounced the Greeks for sponsoring a "minstrel show" and got them to apologize for performing in "blackface."

HENRY PAYNE

RECEIVING LINE

In Tennessee, the Memphis Zoo had to refund the admission charges to several visitors to a special exhibit on dinosaurs. Seems the people complained after they discovered there were no live dinosaurs in the exhibit.

In the District of Columbia, city officials are investigating 10 nightclubs accused of sexual bias. The charges arose after a group of female law students complained that the clubs' "ladies' night" policy of giving cheaper drinks to women discriminates against men.

The NAACP chapter in Columbia, South Carolina, is protesting a plan to make parents of incarcerated minors pay the costs of jailing them. The organization calls the plan "a war on African-Americans."

And in Kansas, the state Senate has approved a bill allowing Kansas City to float $60 million in bonds to build a Wizard of Oz theme park.

In a speech before physicians, Health and Human Services Secretary Donna Shalala identified alcohol abuse as one of the major health problems afflicting the United States. She said that alcoholism is responsible for motor vehicle deaths, drownings, and "psoriasis." She probably meant cirrhosis.

More signs that traditional values are hip again. Italian designer Fabio Inghirami has unveiled an haute line of Hasidic wear. The line will arrive in upscale stores such as Barneys and Fred Segal in July. Yeah, that's just the time to buy black wool overcoats.

The Rev. Donald Wildmon is getting into bed with *Playboy* magazine founder Hugh M. Hefner. Reluctantly. Wildmon went to court last year to try to prevent the U.S. distribution of the documentary movie *Damned in the U.S.A.* Wildmon was upset that the producers juxtaposed an interview with him with photos from the infamous Robert Mapplethorpe exhibit. But Wildmon lost his suit, and *Playboy* snapped up the movie to show on its cable-TV channel in May. Maybe next Hefner can convince Wildmon to appear in one of his *Sexy Lingerie* videos.

—Charles Oliver

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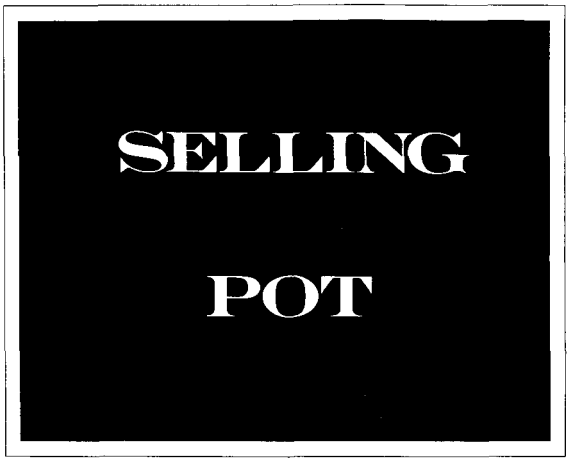

THE

"Whatever the cultural conditions that have made it possible, there is no doubt

PITFALLS

that the discussion about marihuana has become much more sensible,"

OF

Harvard psychiatrist Lester Grinspoon wrote in 1977.

MARIJUANA

"If the trend continues, it is likely that within a decade marihuana will be sold in

REFORM

the United States as a legal intoxicant."

By Jacob Sullum

This was not a silly prediction. At the time, there was good reason to believe it would come true. Six years before, the National Commission on Marihuana and Drug Abuse, appointed by Congress and the Nixon administration, had recommended that the federal government and the states legalize both private possession of marijuana for personal use and casual, nonprofit transfers of the drug in small amounts.

In 1973 Oregon became the first state to "decriminalize" marijuana, making possession of less than an ounce a civil offense punishable by a maximum fine of $100. In 1975 Alaska removed all state penalties for private cultivation and possession of up to four ounces. By the end of the decade, 11 states had decriminalized marijuana possession, a policy endorsed by President Carter, the American Bar Association, the American Medical Association, and the National Council of Churches. Every other state had reduced the penalty for simple possession, nearly all of them changing the offense from a felony to a misdemeanor. Most allowed conditional discharge, without a criminal record.

So Grinspoon's optimism was justified. Yet the year after his prediction, things started to turn around: In 1978 the federal government's policy of spraying Mexican marijuana crops with the herbicide paraquat, which can cause lung fibrosis and death when swallowed in small doses, prompted a nationwide panic among pot smokers. That same year, Carter drug adviser Dr. Peter Bourne, who was sympathetic to reform, was forced to resign after press reports that he had used cocaine at a party sponsored by the National Organization for the Reform of Marijuana Laws. His replacement, Lee Dogoloff, took a hard line on illegal drugs, including pot. And the percentage of Americans favoring marijuana legalization in the Gallup poll dropped for the first time in a decade, from 28 percent in 1977 to 25 percent in 1978. (By the late '80s, the figure was down to about 16 percent.)

The '80s and early '90s saw a series of further setbacks:

❖ In 1983, the Drug Enforcement Administration began spraying paraquat on marijuana crops in the United States. Throughout the decade, the federal government pursued an aggressive domestic eradication policy, especially in California.

❖ The Reagan administration announced a "zero tolerance" program, imposing draconian seizure penalties for marijuana possession, even in tiny amounts.

❖ In 1987 Supreme Court nominee Douglas Ginsburg withdrew under pressure from his erstwhile supporters after admitting that he had smoked pot as a law professor.

❖ In 1989 the federal government launched Operation Green Merchant, raiding the homes of people suspected of growing marijuana because they had purchased gardening equipment.

❖ In 1990 Alaska voters passed a referendum, pushed vigorously by Bush administration drug czar William Bennett, that recriminalized marijuana possession.

❖ That same year, Congress approved a transportation appropriations bill that threatens to withhold funding from states that do not suspend the driver's licenses of drug offenders, including marijuana users, for at least six months.

❖ In 1992 the Department of Health and Human Services canceled a federal program that was supposed to supply patients with medical marijuana.

Under the Clinton administration, there's reason to hope that the pendulum may begin to swing in the other direction again. Both President Clinton and Vice President Gore have used marijuana, and both recall more with nostalgia than with hostility the counterculture of the '60s that many older Republicans still associate with the drug. Clinton has slashed the staff of the Office of National Drug Control Policy, and he has sought advice from scholarly critics of the Bush war on drugs, at least one of whom supports marijuana legalization. Perhaps most significantly, the woman Clinton plans to appoint as surgeon general, Dr. Joycelyn Elders, has said patients who can benefit from medical marijuana should be able to receive it.

OVERPLAYING THE BENEFITS OF CANNABIS MAY PROVE JUST AS RISKY AS UNDERPLAYING ITS POTENTIAL HARMS.

But before reformers try to take advantage of what promises to be a more tolerant policy environment, they need to understand what went wrong the first time around. Since marijuana is both the most widely used and the least harmful of the major illegal drugs, the lessons of the anti-pot backlash have broad implications. If reformers cannot succeed in the case of marijuana, where the arguments for legalization seem to be strongest, it's not likely they will succeed elsewhere.

Several factors contributed to the reversals that began in the late '70s, but the most important was a persistent misperception: Both opponents of reform and the general public seemed to believe that the argument for legalization was based on the premise that "marijuana is harmless." So far as I can tell, no serious scholar or prominent activist who favored changing the marijuana laws ever made this claim. Rather, the

reformers argued that pot was less harmful than other drugs and less harmful than the government had led people to believe. But by the time the policy debate filtered into local newspapers, college campuses, and suburban living rooms, these nuances were lost—partly because, in the experience of most users, marijuana *was* harmless.

This perception established a test that marijuana was bound to fail, since no drug is safe in every dose and circumstance. Consequently, the growing public and official tolerance of marijuana use was vulnerable from the start. Confronted by a powerful counter-reform movement in the late '70s and early '80s, it withered.

Current attempts to revive progress toward legalization run the risk of repeating this pattern. One major approach to reform emphasizes the medical uses of cannabis; another emphasizes the remarkable versatility of the hemp plant, from which marijuana is derived. There is good evidence for these claims. But like the notion that marijuana is completely safe, they tend to establish excessively ambitious criteria for legalization. Overplaying the benefits of cannabis may prove just as risky as underplaying its potential harms.

This is partly a matter of emphasis, but also a matter of style. If you're trying to convince the average American that legalization is a wise policy, it's deadly to come across as a marijuana enthusiast. The most successful reformers have been sober, cautious people far removed from pothead stereotypes—people like Harvard's Grinspoon, author of the 1971 book *Marihuana Reconsidered.*

Grinspoon set out to present credible evidence of marijuana's harms to pot-smoking kids who were ignoring the government's warnings. "I was concerned about all these young people who were using marijuana and destroying themselves," he says. But after examining the research on marijuana's effects, "I realized that I had been brainwashed, like everybody else in the country." In his book, he methodically debunked the many spurious claims about pot, including fears that it causes crime, sexual excess, psychosis, brain damage, physical dependence, and addiction to other drugs.

The following year, the National Commission on Marihuana and Drug Abuse reached broadly similar conclusions: that the dangers of pot had been greatly exaggerated and could not justify punitive treatment of its users. The commission introduced the concept of decriminalization, which the newly formed National Organization for the Reform of Marijuana Laws soon adopted as a goal. At a time when some 600,000 people were being arrested each year on marijuana charges, most for simple possession, the strategy had broad appeal. Liberals were concerned about the injustice of sending college students to jail for carrying a joint or two. Conservatives worried about the mass alienation and disrespect for the law that the policy was breeding.

"There was the beginning of a consensus," says NORML founder Keith Stroup. "It said, 'I don't like marijuana smoking, but I don't think it should be treated as a criminal matter.' " Stroup argues that decriminalization was a necessary first step toward legalization. "Otherwise," he says, "you'd never get beyond the fear that, without criminal penalties, everybody would be stoned all the time, and the whole state would go down the tube."

But, as Grinspoon noted in the 1977 edition of *Marihuana Reconsidered,* decriminalization is inherently unstable. "As long as marihuana use and especially marihuana traffic remain in this peculiar position neither within nor outside the law, demands for a consistent policy would remain strong," he wrote. "We would have to ask ourselves why, if using marihuana is relatively harmless, selling it is a felony; then we would have to decide whether to return to honest prohibition or move on to legalization."

Americans did indeed ask this question, and since the late '70s the trend has been back toward "honest prohibition." An important harbinger of this reaction came in 1974, when Sen. James Eastland (D-Miss.) convened hearings on the "marijuana-hashish epidemic" with the avowed purpose of countering the "good press" that pot had been receiving. Dr. Gabriel Nahas, author of *Marijuana: Deceptive Weed* and *Keep off the Grass,* led a group of researchers who testified that marijuana may cause lung damage, birth defects, genetic abnormalities, shrinkage of the brain, impairment of the immune system, reduction in testosterone levels, and sterility.

Of these hazards, only lung damage has been well established by subsequent research. All the other claims have been discredited or remain controversial. Much of the research cited in the Eastland hearings was heavily criticized soon after it appeared. Some of it was laughably bad, with skewed samples and no control groups.

Despite the poor quality of these studies, anti-marijuana activists continue to cite them. "Those papers, and the ideas they brought forth, are at the heart of the anti-marijuana movement today," says Dr. John P. Morgan, professor of pharmacology at the City University of New York Medical School. "Nahas generated what was clearly a morally based counter-reform movement, but he did a very efficient job of saying that he was actually conducting a toxicological, scientific assessment."

The Eastland hearings left the impression that Americans had been duped by reformers about the nature of marijuana. The title of a piece in the June 10, 1974, issue of *U.S. News & World Report* is revealing: THE PERILS OF 'POT' START SHOWING UP. The writer was clearly confident that the speculation offered by Nahas and his colleagues was only the tip of the iceberg.

The testimony seemed to have a similar impact on Dr. Robert L. DuPont, then director of the National Institute on Drug Abuse. Although he initially supported reducing the penalties for marijuana possession, DuPont renounced decriminalization in 1979. "I have learned that it is impossible to be pro-decrim and anti-pot," he told an anti-marijuana group, "because no matter how you try to explain it to them, young people interpret decrim as meaning that pot must be okay because the government has legally sanctioned it."

DuPont's remarks reflect one of the main concerns that drove the anti-pot backlash: rising marijuana use among teenagers. According to NIDA's National Household Survey, the percentage of Americans between the ages of 12 and 17 who had ever used marijuana rose from about 14 percent in 1972 to about 31 percent in 1979, after which it declined steadily. NIDA's High School Senior Survey shows a similar trend: About 47 percent of seniors reported having used marijuana in 1975 (when the survey began); this figure rose steadily to a little over 60 percent in 1979, after which it declined. The most alarming and frequently cited NIDA pot statistic is for "daily" use by high-school seniors: It rose from 6 percent in 1975 to a peak of nearly 11 percent in 1978.

These numbers overstate the percentage of seniors who got stoned every day in the late '70s. First of all, they don't represent actual daily use throughout the year—only use on 20 or more of the previous 30 days. Granted, that's still pretty heavy. But the numbers include kids who had recently gone through a brief period of heavy use. And as Mark Kleiman, associate professor of public policy at Harvard's John F. Kennedy School of Government, notes in *Marijuana: Costs of Abuse, Costs of Control*, the data are probably inflated by error or exaggeration: Experience with marketing surveys indicates that questions about habitual activities like "On how many of the last 30 days did you use marijuana?" tend to elicit systematic overreporting. Furthermore, the 11-percent "daily use" figure appears to be inconsistent with information from NIDA's household survey.

In any event, it seems that teen-age marijuana use, like adult marijuana use, rose dramatically in the '70s, peaking around 1979. Many parents were alarmed at this trend, and there was reason to be concerned. Both supporters and opponents of legalization agree that it's not a good idea for unsupervised minors to use pot. Whatever the health hazards of the drug, they are likely to be more serious for children. Furthermore, frequent marijuana intoxication can interfere with emotional development, and there's no question that stoned kids have trouble absorbing and recalling information.

But the hysterical reaction of what came to be known as the Parent Movement for Drug-Free Youth, which attracted the active support of the federal government, cannot be understood merely as a response to these dangers. After all, the same concerns could be raised about alcohol use, which was also rising markedly among teenagers during this period. These parents focused their wrath on marijuana because it was an illegal, alien presence in their middle-class, suburban lives—a presence that was tolerated, if not condoned, by a large and growing number of Americans.

The police were looking the other way as tens of millions lit up. College professors, doctors, and lawyers were smoking pot. Movies and music glamorized drug use. There were water pipes in the local record store, for heaven's sake. Morgan, the CUNY pharmacologist, says the reform movement was caught off guard by the parental backlash: "We didn't know the revulsion and hatred that middle-class parents felt about marijuana and their kids getting high. We didn't have any idea how strongly they felt." The outraged parents who would eventually form the backbone of the anti-marijuana movement saw the drug as a lurking threat that would turn out to be far more hazardous than everyone seemed to believe.

Those fears were reinforced by a series of articles that appeared in mainstream magazines in the late '70s and early '80s—articles with titles like "All the Evidence on Pot Isn't In!" (*Seventeen*), "How I Got My Daughter to Stop Smoking Pot" (*Good Housekeeping*), "Marijuana Alert: Enemy of Youth" (*Reader's Digest*), "Marijuana: Now the Fears Are Facts" (*Good Housekeeping*), "Marijuana: The Latest Dope on Its Dangers" (*Mademoiselle*), and "The Perils of Pot" (*Discover*). The articles delivered the same message as the Eastland hearings: You have been deceived. Marijuana is a lot more dangerous than you think.

NO ONE HAS EVER DIED FROM A MARIJUANA OVERDOSE. MARIJUANA ITSELF (AS OPPOSED TO THE ACT OF SMOKING) DOESN'T CAUSE ORGAN DAMAGE.

The most influential anti-marijuana writer was probably the late Peggy Mann, a journalist who started writing about pot in 1978. After attending a conference in France on the dangers of marijuana, organized by Nahas and other anti-pot researchers, she wrote "The Case Against Marijuana Smoking," which appeared on the front page of *The Washington Post*'s Outlook section. During the next few years she wrote many magazine articles on pot, including a four-part series in *Reader's Digest* that prompted a record 6.5 million reprint requests. In 1985 Mann published *Marijuana Alert*, which Nancy Reagan describes in the foreword as "a true story about a drug that is taking America captive."

Marijuana Alert gathers together almost every scrap of research that reflects badly on marijuana, including thoroughly discredited studies, while virtually ignoring anything that would give a different impression, including major surveys of

the literature. This is not simply the mirror image of the approach taken by reformers. Scholars such as Grinspoon, John Kaplan, Norman Zinberg, Edward Brecher, and Andrew Weil were forced to deal with speculation about marijuana's harms and the research supporting it. Indeed, their task was precisely to confront those claims.

Mann, on the other hand, deals with the opposition's arguments and evidence mainly by omitting them. While she describes Nahas's studies finding that marijuana impairs cellular immunity, she neglects to mention that other researchers have tried but failed to replicate them. She discusses Harold Kolansky and William T. Moore's 1971 study suggesting that marijuana use causes a host of psychological problems, but not the storm of criticism it prompted. She cites A. M. G. Campbell's 1971 study finding that marijuana causes cerebral atrophy but leaves out the methodological flaws that made it worthless: All 10 subjects were psychiatric patients, and there was no nonpsychiatric control group; the study also failed to control for epilepsy, head injuries, mental retardation, and the use of other drugs, including alcohol. When Mann does mention criticism, it's only to dismiss it.

This approach is quite effective. If you haven't already heard about the studies and surveys she ignores, Mann's book may well convince you that marijuana is a very dangerous drug. Largely because of Mann and other anti-pot propagandists, many Americans have a vague sense that recent scientific findings show marijuana to be considerably more hazardous than people thought it was in the '70s (a notion reinforced by a similar impression about cocaine). Yet the basic picture remains the same: No one has ever died from a marijuana overdose; based on extrapolations from animal studies, the ratio of the drug's lethal dose to its effective dose is something like 40,000 to 1 (compared to between 4 and 10 to 1 for alcohol and between 10 and 20 to 1 for aspirin). Unlike alcohol used to excess, marijuana itself (as opposed to the act of smoking) does not appear to cause organ damage. And virtually all of marijuana's negative effects are associated with heavy use (the equivalent of several joints a day).

In his 1992 book *Against Excess*, Kleiman writes: "Aside from the almost self-evident proposition that smoking anything is probably bad for the lungs, the quarter century since large numbers of Americans began to use marijuana has produced remarkably little laboratory or epidemiological evidence of serious health damage done by the drug."

Anti-marijuana activists commonly claim that today's pot is more dangerous because it is "much more potent" than the pot of the early '70s, with an average THC content 10 times greater. This claim, which was influential in the successful drive for recriminalization in Alaska, is doubly wrong. As Morgan has noted, the assertion that pot is 10 times more powerful than it used to be is based on a spurious comparison of low-grade Mexican marijuana from fewer than 20 seizures tested in the early '70s with high-grade domestic marijuana from more than 200 seizures tested in the early '80s. The average THC content of domestic seizures tested by the federal government has been pretty stable—around 2 percent to 3 percent—since 1979, the first year for which reliable data are available.

But even if average THC content were significantly higher now than in the '70s, this is more likely a health benefit than a hazard. Since marijuana users generally smoke until they achieve a desired effect, higher potency means less inhalation—a positive result, since lung damage is the only well-established physical risk associated with marijuana use by otherwise healthy adults.

Although they talk about the physical effects of smoking pot, anti-marijuana activists seem to worry more about its psychological impact. *Marijuana Alert*, for example, is full of horror stories about sweet, obedient, courteous, hard-working kids transformed by marijuana into rebellious, lazy, moody, insolent, bored, apathetic, sexually promiscuous monsters. The most striking thing about these accounts is the extent to which the symptoms of marijuana use overlap with the symptoms of adolescence. "It was very easy for parents to blame marijuana for all the problems that their children were having, rather than to accept any responsibility," Grinspoon observes. "It became a very convenient way of dealing with and understanding various kinds of problems."

In addition to confusing correlation with causation, anti-marijuana activists blur the distinction between short-term and long-term effects. Under the influence of marijuana, for example, users appear listless; their thinking may seem disordered, and their short-term memories are impaired. But to judge by the anecdotes that Mann offers, these are persistent traits of pot smokers, intoxicated or not. She says the problems may not disappear for months after the last joint, if at all.

For anyone who knew a pothead or two in high school or college, this depiction of marijuana's effects may have the ring of truth. One of my colleagues cites the impact that pot seemed to have on some of his fellow students: They sat around getting stoned all day, skipping classes, accomplishing nothing. But since the vast majority of people who use marijuana don't end up this way, it's clear that heavy pot use is more likely to be the expression of psychological problems or personality traits than the cause of them. Of course, being stoned all the time would exacerbate almost anyone's problems, but that doesn't mean pot can magically transform a straight-A student into a burned-out hippie.

Another frequently cited behavioral result of smoking pot is the so-called gateway effect. In 1985 I covered a pot bust in northeastern Pennsylvania, following a long line of state police cars up winding dirt roads through the woods until we arrived at a modest marijuana farm. Watching the troopers uproot the tall, bright-green plants, I asked the officer in charge what all the fuss was about. He gave the standard response: "Marijuana may not be so bad, but it leads to harder drugs. I've seen it a thousand times."

I've been mulling that over, on and off, for the last eight years. My initial reaction was, "That's not true." I have since arrived at a more sophisticated position: "*What's* not true?" The

gateway theory is deliberately ambiguous and therefore impossible to disprove. It's not clear what it means to say that marijuana "leads to" other drugs.

For example, heroin use is usually preceded by marijuana use, but marijuana use is rarely followed by heroin use. Those who use marijuana are statistically more likely to use other drugs (as are users of alcohol and tobacco), but this tells us nothing about causation. In particular, it does not tell us whether eliminating marijuana from the planet would have any impact at all on cocaine or heroin use. And to the extent that a "gateway effect" works by introducing pot users to the black market, prohibition is the real problem. In short, the most useful thing that can be said about the gateway theory is that it's not very useful—as a scientific concept, that is; it's very useful as a rhetorical device.

You could say the same for the entire case against marijuana. From a scientific perspective, it's not very impressive. But it has made a real difference in the hearts and minds of many Americans. The main reason the anti-pot campaign has been so successful is that many people believed they'd been told marijuana should be legalized because it was harmless. Therefore it did not take much evidence to discredit the reform movement. Just as the advocates of decriminalization drew strength from the actual lies the government had been telling about marijuana for decades, the anti-pot movement drew strength from the perceived lies of the reformers.

"NO ONE HERE EVER CLAIMED MARIJUANA IS HARMLESS," SAYS NORML'S NATIONAL DIRECTOR. "NOTHING IS HARMLESS."

The "myth of harmlessness" shows up again and again in Mann's writings; it's her favorite foil. It also appears in essays by political commentators. In a 1983 *National Review* article, for example, Richard Vigilante refers to "much rhetoric about marijuana's being 'a harmless recreational drug' " and describes the task of reformers as "having to argue for the drug's legality by proving its harmlessness." News coverage confirms that many people thought they were hearing the message that pot is harmless during the '70s. In its article on the 1974 Eastland hearings, for example, *U.S. News* reported: "The researchers...agreed that the claim that cannabis is an innocuous drug is ill-founded." In 1980 *Newsweek* could casually refer to "the widely accepted public view today that [pot] is probably harmless."

"This is just bizarre," says Richard Cowan, who became NORML's national director last year. "No one here ever claimed that marijuana is harmless. That's an easy straw man, since nothing is harmless." A charter member of Young Americans for Freedom, Cowan wrote an influential piece for *National Review* in 1972, "American Conservatives Should Revise their Position on Marijuana." In the two decades since then, he has repeatedly encountered the "marijuana is harmless" straw man.

No doubt anti-marijuana propagandists have sometimes deliberately mischaracterized the arguments of their opponents. But there is also an element of genuine misunderstanding here, rooted in the limitations of the English language. There is no convenient, shorthand way to express what the reformers have been trying to say: Marijuana is not so harmful, compared to other (legal and illegal) drugs, compared to a wide range of recreational activities, compared to its image as portrayed by the government, and compared to the laws aimed at suppressing its use. There is no word that means "acceptably risky" or "not all that dangerous," no word that expresses a low relative evaluation of harmfulness in the same way that *inexpensive* expresses a low relative evaluation of cost.

So reformers trying to be pithy have had to make do with modified versions of *safe*, *innocuous*, and *harmless*, as in "comparatively safe," "relatively innocuous," or "harmless for most people." When their arguments are summed up by others, the crucial modifiers are often lost.

For today's reformers, then, it's not enough to have the facts straight and to formulate solid arguments. They have to be aware of how their arguments will be perceived. In this connection, there are serious pitfalls for activists pursuing either of the two approaches to reform that are now prominent within the marijuana movement.

The problems with the hemp-as-wonder-plant strategy are pretty obvious. Marijuana activists Jack Herer of California and Gatewood Galbraith of Kentucky are among the leading advocates of this approach, which has also attracted the support of *High Times* and country singer Willie Nelson. In his 1985 book *The Emperor Wears No Clothes*, which *High Times* editor Steve Hager calls "the bible of the hemp movement," Herer explores the history and the many uses of the hemp plant: In addition to medicine, it can be a source of food, oil, fuel, paper, building materials, and fiber for rope and fabric. He argues that hemp derivatives could successfully compete with current products, and he implies that the pharmaceutical, paper, and petroleum industries have conspired to suppress marijuana.

He contends that substituting methane, methanol, and charcoal from hemp-based biomass for fossil fuels would halt global warming and thereby "save the world."

There are some good things to be said for Herer's approach. His book demonstrates how our view of hemp, which was once a very important legal crop in the United States and other countries, has been warped by the government's campaign against marijuana. And it is no doubt true that entrepreneurs would rediscover profitable, nonpsychoactive uses for the plant if legal barriers were removed.

Perhaps most important, the hemp movement has attracted interest from a lot of people—mostly young and leftish, but also libertarians, including *Orange County Register* columnist Alan Bock and some readers of this magazine. Herer's organization, HEMP (Help Eradicate Marijuana Prohibition), sets up a stand on weekends in Venice, California, touting the plant's uses and offering passers-by the opportunity to examine hemp rope and clothing. People stop and chat, and some of them sign a petition to get a marijuana legalization initiative on the ballot. Rallies and the sale of hemp products by mail also help to arouse curiosity.

Still, it would be fair to say that the hemp movement has limited appeal. What goes over in Venice does not necessarily go over in Provo—or in Washington, D.C. Kevin Zeese, vice president of the Drug Policy Foundation, praises the Hererites for getting young people involved in the fight against prohibition. But he observes: "That wing [of the movement] presents the marijuana user as a stereotype that frightens society—the long-haired hippie. It scares people."

In addition to the image problem, there's the substance of Herer's arguments. Even leaving aside the idea of a "marijuana conspiracy," Herer asks people to accept a host of claims about hemp—some clearly true, some dubious. And not only about hemp: To believe that this plant can "save the world," you have to buy (at least) the global-warming theory—as if marijuana legalization weren't controversial enough. Regardless of how truthful Herer's claims are, it's just *too much*. As Zeese puts it: "It comes across as, 'This is the wonder drug that can save the world, the environment, the trees, the fuel supply; it can heal the blind and crippled.' It really sounds like a snake-oil salesman, even though there's a lot of truth to it."

The Herer approach also seems like a ploy to distract people from the real issue. After all, hemp's main use in the United States today is not for paper or cloth or fuel. Any mildly skeptical person, upon hearing a guy with a long beard in a tie-dyed shirt talk about the wonderful versatility of the hemp plant, is going to have a pretty good idea what's *really* on his mind. The appearance of deceit only makes getting high seem all the more sinister: If there's nothing wrong with it, what are they trying to hide?

The issue of medical marijuana presents some of the same problems, but it's much harder for people to dismiss. For one thing, there is strong evidence that marijuana can relieve pain, help treat glaucoma, control nausea and vomiting, and stimulate appetite. There's also some indication that it's helpful for controlling seizures and muscle spasms. In 1988, after hearing 13 days of testimony and reviewing 18 volumes of evidence, the DEA's chief administrative law judge, Francis Young, concluded that marijuana has significant potential as a medicine and called it "one of the safest therapeutically active substances known to man." Furthermore, there is a real, potentially huge, and very sympathetic constituency for medical marijuana. Polls find that a large majority of Americans agree the drug should be available to these patients.

Most of the reformers I interviewed for this article predicted that medical marijuana would be legally available soon, perhaps within the first year of the Clinton administration. The change would not require legislation, or even direct presidential action. "I don't expect President Clinton to touch the marijuana issue, after his inhaling comments," Zeese says. But Clinton could instruct people at the DEA, HHS, and the Food and Drug Administration either to resume the federal government's medical marijuana program or to reclassify the drug so it could be available by prescription. Either way, if the new policy is for real, thousands of cancer, glaucoma, and AIDS patients could start receiving legal pot.

That prospect raises the complicated question of what connection, if any, medical marijuana has to broad legalization. Anti-pot activists such as Peggy Mann have long argued that medical marijuana is a red herring, a tactic to make the drug more acceptable and thereby promote legalization. Robert Randall, president of the Alliance for Cannabis Therapeutics, notes that, logically, marijuana could be legally available as a medicine but not as a recreational or social drug.

"We do that with almost every drug on the planet," he says. "It's illegal for you to have Valium if you don't have the scrip. So what's the big difference here?"

The big difference may be that marijuana is a lot more popular. Tens of millions of Americans smoke pot from time to time, and more might if it were easier to get or if it became more socially acceptable. Marijuana is also easier to manufacture than Valium. Still, it's wrong to argue, as Mann and the DEA do, that the drive for medical marijuana is merely a ruse. Many people want marijuana because it can help save their sight or relieve their suffering. There is a humanitarian argument for medical marijuana that is distinct from the argument for broad legalization. Nonetheless, it's clear that medical availability would affect the legalization debate.

The question is, how? Zeese, who ran NORML from 1983 to 1986, suggests medical access could hurt the drive for legalization in the same way decriminalization did: by eliminating sympathetic victims (in that case, the middle-class college kids who were going to jail for marijuana possession). "You'd be taking a lot of the steam out of the legalization movement, because you'd be putting a kinder and gentler face on the drug war," he says. "We wouldn't have those cancer patients and AIDS patients and glaucoma patients at our side as allies. We'd no longer have that compassionate argument."

Cowan offers a more optimistic scenario: Hundreds of thousands of people will be using legal pot, free to speak out about its effects without fear of repercussions. "The cat will be out of

the bag," he says. "That is going to totally change the dynamics of the issue....If we get medical access, we're going to get legalization eventually. The narcocracy knows this; it's the reason they fight it so much."

Grinspoon, too, suggests that medical access would be difficult to contain. "The problems connected with that are so vast that it will not work," he says. He estimates that legal pot would retail for about $10 an ounce, much less than current black-market prices, typically $100 to $300 an ounce, depending on quality and availability. "Everybody will be going to the doctor and saying, 'Oh, I've got a backache, I've got this, I've got that.' The doctors are not going to want to be gatekeepers."

Moreover, any preparation of marijuana that was available by prescription would have to receive FDA approval. Grinspoon notes that pharmaceutical companies are not likely to pay for the expensive tests that would be necessary to meet the FDA's strict standards for efficacy, since marijuana could not be patented. In any case, he says, "why should people wait? They're suffering."

If the government didn't reclassify marijuana, Grinspoon says, it would need "an army of bureaucrats" to supervise any workable medical marijuana program. And what the bureaucracy gives, it can take away. A new administration could once again block medical access. Since availability would be based on claims about marijuana's therapeutic value, the government could always decide that new research or the development of "better" alternatives justified cutting off the legal supply. For all these reasons, Grinspoon argues that legalization is the best way to achieve medical availability, rather than the other way around.

If Grinspoon is right, it may be time to plow through the research again and dig up all those arguments from the '70s. In fact, this is what's happening in Alaska, where the challenge to recriminalization will involve rehashing the debate over marijuana's hazards. A Superior Court judge there has concluded that the 1990 anti-pot initiative can be upheld only if the drug's effects have changed significantly since 1975, when the Alaska Supreme Court ruled that the state constitution's privacy clause protects marijuana use in the home.

Putting marijuana on trial is an approach that's designed to favor the prohibitionists. It requires, if not proof of harmlessness, something very close to it. And even if the opponents of recriminalization can meet the burden of proof, the issue can always be raised again in 10 or 15 years. It is never finally settled.

Part of the problem is that most Americans do not view marijuana simply as a drug—a substance with certain benefits and certain hazards, one that can be used moderately or excessively, responsibly or irresponsibly. As a subject of public concern, marijuana has always been fraught with symbolism, and it has always represented something foreign to white, middle-class America: Mexicans, jazz musicians, ghetto blacks, hippies.

Decriminalization succeeded—and, despite the setbacks, it largely remains a success—because reformers were able to take the focus off the drug, with all its potent symbolism, and put the law on trial instead. But once the penalties for possession were reduced, the spotlight shifted back to marijuana's harmfulness. "A poor job was done, from the late '70s on, of framing the arguments," Cowan says. "We stayed on the defensive, allowing the debate to be focused on 'the latest research.' What we needed to do was to start telling people about the effects of the laws." If legalization is to succeed, reformers will have to stress the injustice of prohibition—not just for the college kid caught with a few joints or the woman who gives pot brownies to AIDS patients, but for anyone who grows or sells marijuana. Not long ago REASON received a letter from a reader:

THE HEMP MOVEMENT HAS LIMITED APPEAL. IT PRESENTS THE MARIJUANA USER AS A STEREOTYPE THAT FRIGHTENS SOCIETY: THE LONG-HAIRED HIPPIE.

"I am a 42 year old male and married to a wonderful woman. We have three children who I love very much. My desperation is derived from the fact that I was taken away from my wife and children by the U.S. government and sent to prison in another state for a conviction of conspiracy to import and distribute marijuana. Although I have never been in trouble before with the law and always have been a productive, tax-paying citizen, the Government sentenced me to 25 years in prison without the possibility of parole. There was no violence or guns involved in this alleged conspiracy, and I can honestly proclaim that I have never broken any of God's Ten Commandments, but the Government has taken the rest of my life away from me. My children are ages 12, 2, and 1. I will never see or feel any of the cherished moments of their childhood, which breaks my heart. More importantly, they will grow up without a father, which hurts me more than anything."

I suspect that the average American would have little sympathy for this man. Unless that changes, marijuana will never be legal again.

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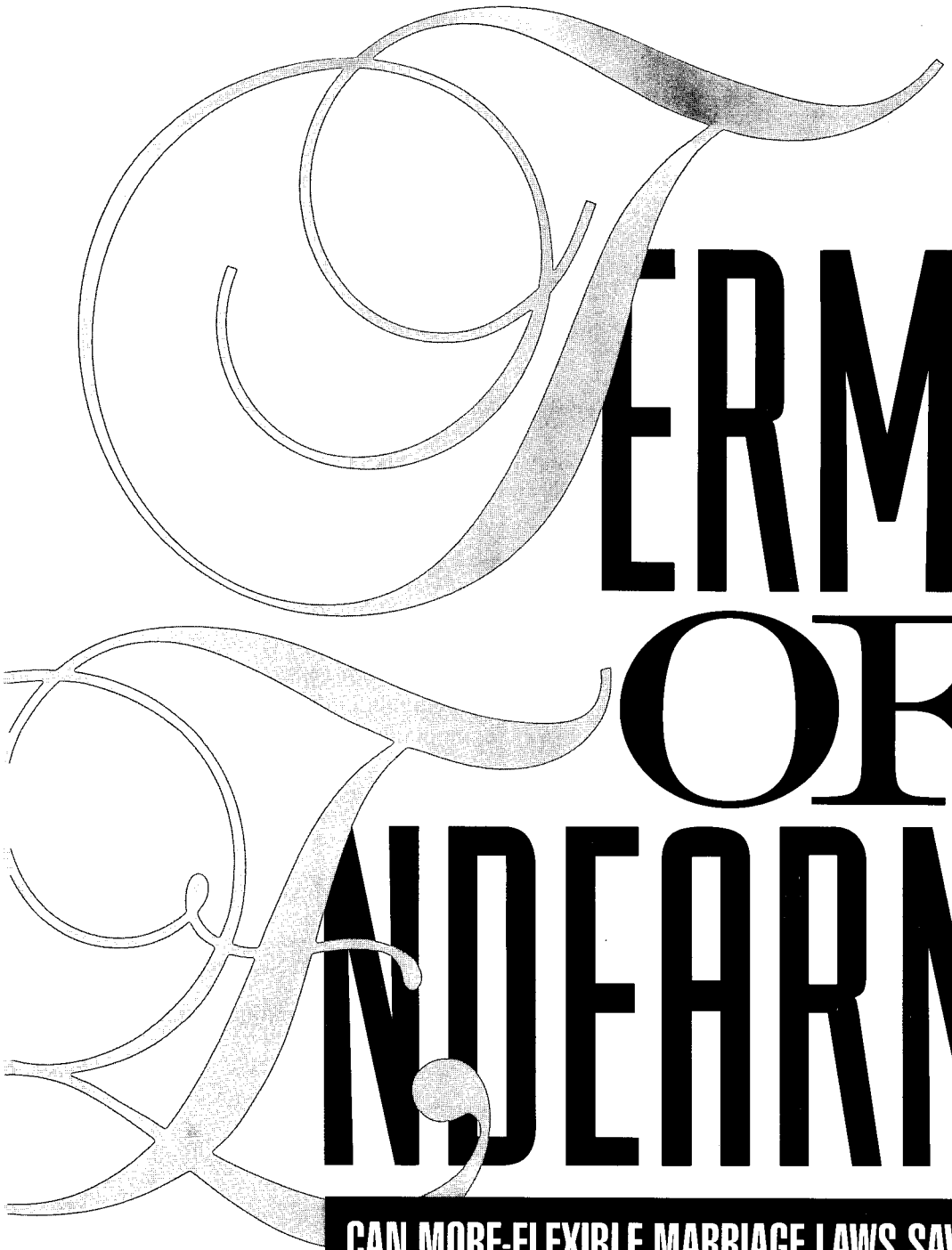


TERMS OF ENDEARMENT

CAN MORE-FLEXIBLE MARRIAGE LAWS SAVE THE AMERICAN FAMILY?

By Allen M. Parkman

The state should allow couples embarking upon marriage the freedom to arrange whatever contract best suits their individual needs and desires.

Few situations have ever been as idyllic as the traditional family portrayed in the 1950s television series *Father Knows Best*. So it's natural for politicians, especially those of a conservative bent, to glorify the family of an earlier era and call for its reestablishment. Last year's Murphy Brown–inspired controversy about "family values" reflected the power of this theme.

Certainly families of the kind depicted in *Father Knows Best* have declined in recent decades. The proportion of American adults who are married is falling, the share of children born to unwed mothers has soared, and most Americans under age 18 will spend part of their childhoods living with only one parent. A look at a few statistics confirms the move away from traditional marriage and family patterns:

- The percentage of households consisting of married couples fell from 79 percent in 1950 to 55 percent in 1991.
- Non-family households—mostly people who live alone—grew from 10 percent to 30 percent of households during the same period.
- Between 1956 and 1990, the median age at first marriage rose from 20.1 to 24 for women and from 22.5 to 26 for men.
- Since 1950, the percentage of American families headed by women has nearly doubled, to 17 percent.
- Thirty-one percent of one-parent families are now headed by never-married women, in contrast to 6.5 percent in 1970.

During last year's presidential campaign, candidates responded to these changes with a variety of polemics and proposed solutions. But the debate ignored one of the most important factors behind the decline of the American family: government regulation of marriage and divorce. In particular, the shift to no-fault divorce is a major reason family life has become less attractive to many Americans. Under the no-fault divorce laws of most states, one spouse may unilaterally dissolve a marriage. These laws have reduced the incentives for spouses to commit themselves to their relationship and have caused many other people to either delay or forgo marriage.

Decrying these developments, some conservatives have called for a return to the old, fault-based divorce regime, under which marriages were harder to dissolve. But that system was abandoned because many people were dissatisfied with it, just as many are dissatisfied with current marriage laws. Rather than adopt a different one-size-fits-all solution, the government should give couples embarking upon marriage the freedom to make whatever arrangements best suit their needs and desires. This could be accomplished if the states simply extended to marriage agreements the same latitude as commercial contracts.

The government's role in regulating marriage has moral and religious roots, but it is also an attempt to stop individuals from imposing costs on other members of society. Children born out of wedlock can be a burden on others, since they are more likely to need outside support, whether private charity or public welfare. This problem was magnified in a world of limited contraceptives and low incomes. Government therefore established penalties for sex outside of marriage. Richard Posner, a federal appeals-court judge and law-and-economics scholar, argues that the history of public policy toward sex since the beginning of the Christian era is a history of efforts to confine sexual activity to marriage.

In addition to the stick of government penalties, the carrot of economic incentives has tended to encourage marriage. Economist and Nobel laureate Gary Becker argues that marriage is reinforced not only by romance and sexual attraction but also by the extra goods and services that married couples and their children can enjoy.

Some of these benefits come simply from sharing a household. People who live together can increase their welfare through both specialization and joint consumption. For example, one person can do the shopping while the other does the cooking, instead of each performing both activities. Not only do they economize on their time, they become more proficient at each activity. In addition, sharing goods or services can reduce total expenses. For instance, two people who are willing to watch the same television programs can get by with one television set rather than two.

These examples of specialization and joint consumption explain why people live together, not necessarily why they marry. The economic logic behind marriage is based on forms of specialization that involve long-term costs. There are few long-term costs when roommates assume roles as shopper and cook. If the arrangement ends, neither party is worse off than

he would have been had he never entered the relationship in the first place. But if one person specializes in earning an income and the other specializes in domestic work, the second person can find herself worse off if the arrangement is dissolved than she would have been had she never been married.

Couples often arrive at this breadwinner/homemaker arrangement after deciding to have children. It usually costs more for both parents to assume equal shares of child rearing than for one to assume primary responsibility. Say the mother is a corporate lawyer, a job that requires her to be at a particular place for specific hours, with occasional, unanticipated overtime. She could find a more-flexible job, but only at the cost of a substantial reduction in her income. Meanwhile, the father is a free-lance writer, a job that pays according to how much work he produces and allows him to set his own hours. Under those circumstances, it probably makes sense for the father to assume the main child-rearing responsibility.

But the domestic efforts of the father, especially the child rearing, tend to occur during the early part of the relationship. The contribution of the income-earning parent, on the other hand, tends to increase over time. If the relationship is eventually dissolved, the mother, who has specialized in income earning during the marriage, would lose the services provided by the father, who worked at home, but these services may have limited value after the children have left. Meanwhile, the parent who has worked at home has skills with limited market value; he suffers long-term costs because he decided to specialize in domestic work.

Because of this potential asymmetry, most couples who want children marry with the understanding that it is a long-term arrangement. While marriage has many similarities to a commercial contract, the state has regulated it heavily, usually under the rationale of protecting children. In past centuries, because people married when they were older and had shorter life expectancies, children were dependent on their parents for most of their parents' lives. In addition, few men—the main source of income—were able to support more than one family, so marriage had to be a permanent relationship. To protect the children, the parties had to recognize that a marriage would be difficult or impossible to dissolve.

Between 1602 and 1857, for example, only 317 divorces were granted in England, and they were all based on private acts of Parliament. Conditions were less strict in the United States, but divorce was still difficult. The Constitution gave the states jurisdiction over marriage and divorce, and some had established grounds for divorce from the very beginning. When divorce was permitted, the grounds were based on the fault of a spouse: desertion, adultery, or cruelty. Because of the federal system, people could move from a state with strict grounds to one with liberal grounds if they wanted to end their marriage.

Until recently, the marriage laws corresponded pretty well with the preferences of most people. But conditions have changed. With improved forms of contraception, people can have active sex lives without fear of pregnancy. Higher incomes have enabled one person to support more than one family. Increased social tolerance has allowed homosexual couples to establish open relationships.

As the earnings and opportunities available to men and women have become more similar, the gains from specialization during marriage have dropped. When women had few alternatives to marriage, marriage could mean a substantial increase in their welfare. In the absence of domestic labor-saving devices and convenient, ready-made food, men also could increase their welfare through marriage. In both cases, the growth of alternatives reduced the gains from marriage.

Higher earnings for women also mean that children tend to cost more, since women who assume the child-rearing role often have to sacrifice or limit their employment. The increased cost of raising children has further reduced the desirability of marriage. (Most couples who choose to live together without marrying do not have children.)

With these changes, some people discovered after marriage that they were not realizing the gains they had anticipated. Reflecting this reevaluation, the divorce rate rose from 1.6 per 1,000 people in 1920 to 3.5 per 1,000 population in 1970. Since fault grounds for divorce did not conform to these individuals' preferences, they took steps to get around the laws.

Increasingly, divorces were uncontested. Parties who wanted a divorce used fabricated testimony, usually "proving" cruelty, to establish the necessary legal grounds. Since the plaintiff in such

As the earnings and opportunities available to men and women have become more similar, the gains from specialization during marriage have dropped.

No-fault divorce was promoted by people who did not appreciate the advantages of dissolving marriage only with mutual consent.

divorce cases had to be the innocent party, the defendant was usually the person who wanted the divorce and who obtained the cooperation of the other party by promising compensation. In effect, the divorce was based on mutual consent. The requirement of mutual consent for divorce provided some protection for spouses who had specialized in domestic work during marriage.

Individuals forced to fabricate testimony to establish the grounds for divorce suffered embarrassment and inconvenience (as well as the risk of perjury charges). In addition, some legal scholars found the fault grounds for divorce hypocritical. As a result, a movement developed to change the grounds for divorce from fault to no-fault. Between 1969 and 1985, all the states enacted laws that either replaced the fault grounds for divorce with no-fault grounds (such as "incompatibility" or "irretrievable breakdown") or added no-fault grounds to the existing fault grounds. While some states required agreement on the no-fault grounds, in most states divorce became effectively unilateral.

No-fault divorce was promoted by people, such as divorced men and career women, who did not appreciate the advantages of marriage as an arrangement that could be dissolved only with mutual consent. The people who were willing to assume more-specialized roles during marriage and therefore wanted it to be a long-term arrangement were conspicuously absent from the debate. Instead of requiring mutual consent of the parties, divorce is now based on the preferences of one party, subject to the legal requirement for a property settlement, alimony, and child support and custody.

These laws are extremely unfair to spouses who specialize in domestic work during marriage. Property settlements tend to recognize only physical assets such as houses and cars and financial assets such as stocks and bonds. Largely ignored is the most valuable asset affected by marriage—the parties' income-earning capacities. The person who worked at home will receive little compensation for a career that was sacrificed or restricted to raise a family. Courts once attempted to correct for the financial situation of these people through alimony, but increasingly alimony is designed for a limited period of rehabilitation. The problems that custodial parents have had in collecting child support are legend.

No-fault divorce laws have made it more likely that a given divorce will produce more costs than benefits. The mutual-consent divorces that occurred under the fault-based system required the divorcing spouse to compensate the divorced spouse so that they both felt better off than they would have been had the marriage continued. Hence their combined welfare improved. But under no-fault divorce, the net gain to the divorcing spouse may not exceed the net cost to the divorced spouse and the children. Hence divorce can reduce the total well-being of everyone involved.

Women gradually noticed the adverse effects of no-fault divorce. Married women became aware that divorced women and their children were being treated very poorly at divorce. With limited negotiating power, divorced women were receiving financial settlements lower than what they would have received under the old system. As a result, married women became less willing to specialize in domestic work, recognizing that they needed to maintain or increase their marketable skills during marriage. This awareness contributed to the rise in the labor-force participation rate of married women and to the increase in the number of married women continuing their education during marriage.

These decisions can reduce the welfare of families. With the protection provided by fault divorce, married women often sacrificed employment and education opportunities because the services they provided at home were worth more to the family than the income they lost. This changed with no-fault divorce. Although the whole family still shared the current income loss, if the marriage ended the woman might have to bear the burden of the future income loss alone. With no assurance that the law would take into account the sacrifice involved in specialization, women became less willing to work primarily at home, even when it was in the best interest of their families. Because the government controlled the grounds for divorce, a couple could not create a contract that adequately protected the spouse who chose to specialize in domestic work.

The current no-fault divorce laws do not meet the needs of individuals who want a relationship in which the party who specializes in domestic work receives adequate compensation if the marriage ends. The "marriage contract"

provided by law permits unilateral divorce subject to financial and custodial arrangements that can be very unfair to at least one of the parties and the children.

The problem is the limits on the right of individuals to draft their own marriage contracts. The laws treat marriage agreements and commercial agreements differently. When individuals find that the laws governing a particular commercial contract do not serve their best interests, they have broad latitude to draft an agreement that circumvents the laws. For example, the Uniform Commercial Code provides that delivery of a good will be within a "reasonable" time *unless the parties specify another time.* The law has not traditionally given parties to a marriage agreement similar freedom. They may not alter the basic agreement prescribed by the state.

Many of the conditions of a marriage contract, especially the grounds for divorce, cannot be altered by the parties. So even if a couple want to make their marriage a long-term commitment that can be dissolved only with mutual consent, they are not able to do so. The states have always maintained the exclusive right to prescribe the grounds for divorce. While the parties were given some discretion about financial and custodial arrangements at divorce under the fault system, the courts were unwilling to permit people to make those arrangements at marriage. The courts were antagonistic to premarital agreements because of fears that they would encourage divorce and that no contract could adequately deal with all the circumstances that might confront the parties in a long marriage.

Premarital agreements are coming into wider use because of changes in marital patterns. By the early 1980s, men and women over 30 years of age accounted for 41 percent and 32 percent, respectively, of new marriages. Not only are these people older and therefore more aware of the potential problems associated with marriage, they also bring more assets to their marriages. The increasing divorce rate also means more and more people are marrying repeatedly. In about 45 percent of marriages, at least one party has been married before.

Many courts now uphold premarital agreements, especially when strict standards of fairness are met or for a second marriage. The courts ask whether there was a fair disclosure of the parties' wealth at the time of the contract, how the provisions of the contract compare with the legal support obligations they would replace, and whether enforcement of the contract would make one spouse a burden on society. Courts tend to look more kindly on agreements concerning property settlements than agreements affecting support obligations. Premarital agreements that seek to define or waive support obligations and other essential duties of marriage are likely to be declared invalid. So there is still substantial doubt about the enforceability of premarital agreements.

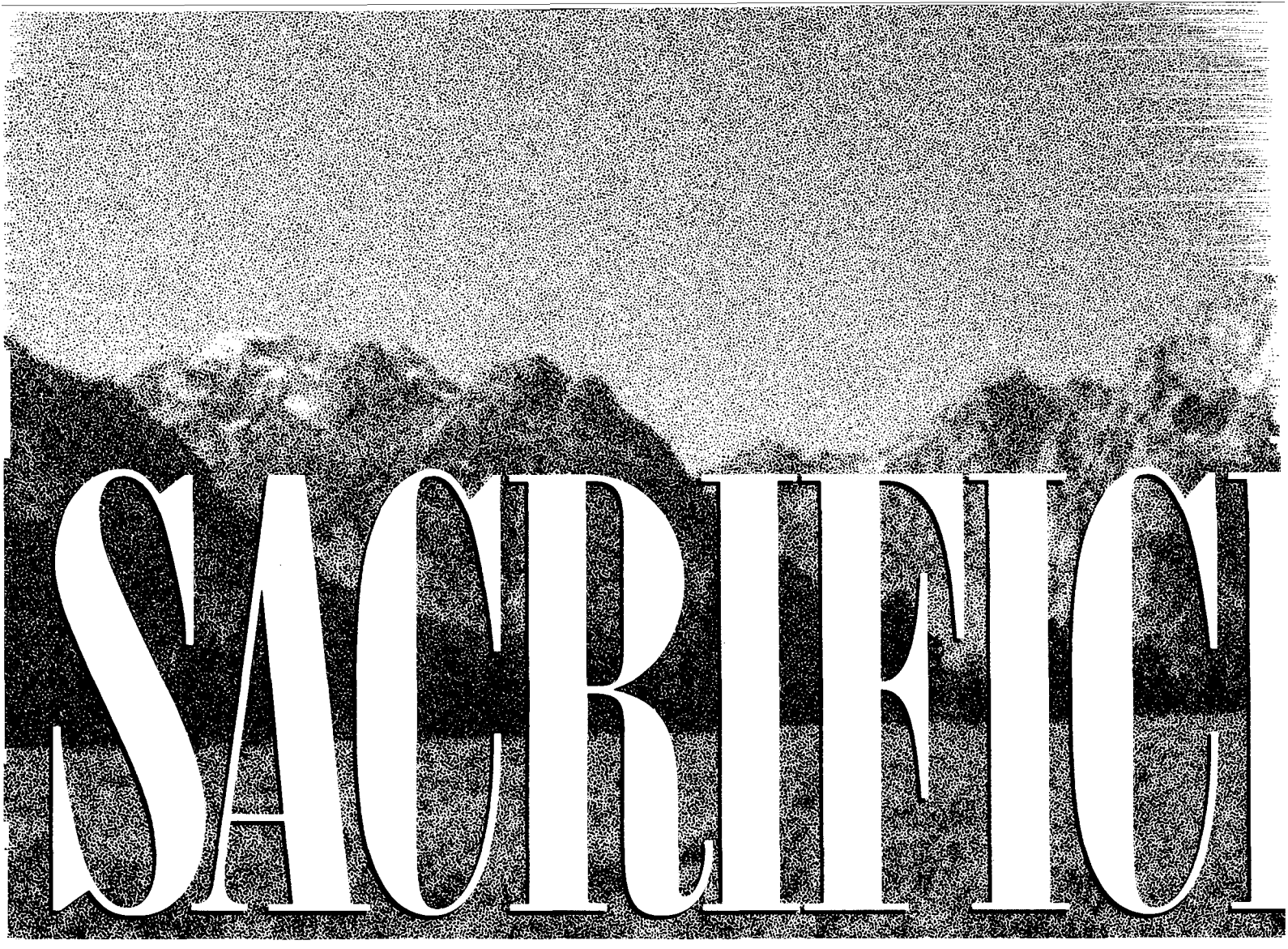
Many people in the United States would benefit from the more predictable enforcement of premarital and postmarital contracts. The states could enact marriage and divorce laws that are similar to the Uniform Commercial Code, establishing standards that apply except when the parties specify otherwise. For example, no-fault grounds for divorce might be appropriate during the period early in the marriage when the parties are becoming more familiar. When the importance of long-term assurances increases, such as when a child is conceived, the grounds could change to mutual consent. In their contracts, couples who wanted a traditional marriage might choose to make mutual consent the only basis for divorce. Couples who anticipated careers that would not be affected by children might provide for unilateral divorce. Marriage contracts would allow for homosexual as well as heterosexual relationships.

Because of sentimentality and uncertainty about the future, people find it difficult to draft premarital agreements. Even if they consider a premarital agreement, they may be discouraged because the states control the grounds for divorce, the most obvious condition that they might want to set for themselves. If the government gave spouses control over the grounds for divorce, they might be more likely to consider the other aspects of divorce over which they would like a binding agreement.

We like predictability, and the law often provides it. But predictability does not require uniformity. Rather than dictating a take-it-or-leave-it arrangement, the law should give individuals the opportunity to draft their own marriage contracts, subject to protection for third parties such as children. The result would be an improvement in the quality of family life. ■

Allen M. Parkman, an economist and lawyer at the University of New Mexico, is the author of No-Fault Divorce: What Went Wrong? *(Westview Press).*

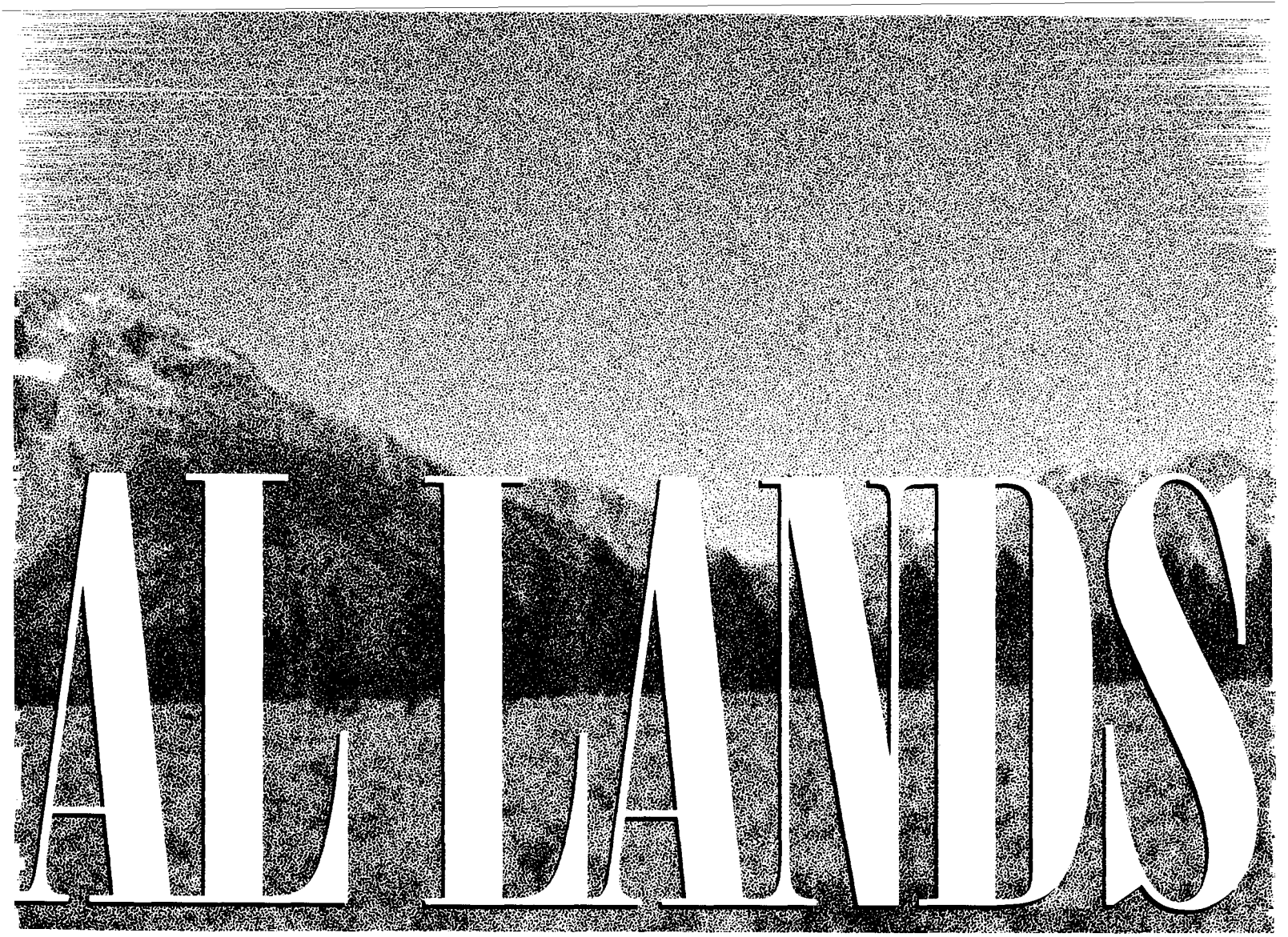
Family life would be improved if the law gave individuals the chance to draft their own marriage contracts, subject to protection for children.



SACRIFIC

HOW THE WEST WAS ONE (AND W

Bruce Babbitt, secretary of the interior, is gunning for environmental change on the nation's public lands. Like television's chivalrous Paladin in *Have Gun Will Travel*, his sights are set on rescuing the American West from a long history of exploitation. A white-hatted cowboy in what many consider a savaged land, he is determined to right the environmental wrongs of the Reagan-Bush years. He plans to stand the legacy of James Watt on its head, to transform the Department of the Interior from a patsy for natural-resource developers into a staunch defender of arid rangelands and endangered species.



ALLANDS

IY IT SHOULD BE MANY)

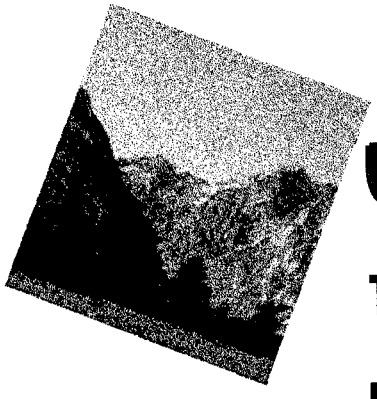
By Karl Hess Jr.

Babbitt's reform proposals include a complete revamping of the National Park Service, more-vigorous protection of endangered species, and a thorough revision of the laws governing mining on federal lands. But these are only the first initiatives in a bold program to recolor the public domain green. Even more sweeping changes on federal lands can be expected as Babbitt takes his crusade to the very heartland of the American West. He has the intent, as well as the authority, to raise the grazing fees charged to the wealthiest public-land ranchers, to give "incentive" credits on grazing fees for land improvements, and to rewrite federal policy to the singular advantage of small stockmen.

Higher fees that are cushioned by "incentive" credits will presumably stem the massive depletion of desert grasslands caused by decades of overgrazing (plus save taxpayers millions of dollars). And policy breaks to small ranchers, which may ironically include lower grazing fees, will supposedly curb the power of large stockmen and make the federal range a more inviting home to the family ranch. All in all, the hopes of an entire environmental generation ride on Babbitt's shoulders. He holds the key to the protection and restoration of the Western range, the bulk of which is owned lock, stock, and barrel by Uncle Sam and which, until the end of World War II, was best known as "the lands that nobody wanted."

The lands that nobody wanted are the hundreds of millions of acres managed by the departments of the Interior and Agriculture; they include most of America's national forests and all of its desert rangelands. Except where bisected by major highways, they are distant, remote, and unknown to the vast majority of citizens. Yet those same lands comprise almost a third of the nation's territory, embracing a resource-rich and beauty-laden landscape that is almost three times the size of the original 13 colonies. And like the 13 colonies, they are peculiarly emblematic of American freedom and democracy.

Who does not recall Huckleberry Finn's flight from the confines of civilization to the freedom of the Western frontier?



JEFFERSON'S VISION OF YEOMAN FARMERS TILLING SMALL PLOTS OF LAND WAS ILL-SUITED FOR THE ARID WEST.

And who has forgotten the key role that Western public lands were to play in the making and extension of Thomas Jefferson's virtuous agrarian republic—a republic spacious enough "to employ an infinite number of people in [its] cultivation"? And is there anyone who does not secretly revel in environmentalist Edward Abbey's homage to public lands "as a refuge from authoritarian government [and] political oppression"?

American mythology has made the American West the repository of the nation's most noble sentiments. Sadly, noble sentiments cannot transform public lands into the citadel of freedom they never were or disguise the fact of their century-long abuse. America's emblem of freedom and repository of untouched wilderness has been tarnished and ravaged by a long and tumultuous history of government mismanagement.

During the last 130 years, a series of political agendas have relied on government might to capture and exploit public lands. Sweeping ideologies that I call *landscape visions* have driven those agendas, prescribing precisely how Western landscapes should look, be used, and be managed. Successful land-policy reform will mean breaking that pattern by replacing a grand, coercive landscape vision with a diversity of visions based on choice and voluntarism.

In one sense, every man and woman who ever settled on the Western range came with visions of how best to mold the land to his or her individual taste and ambition. But the landscape visions that have most affected America's public lands are the handful that successfully hitched the power of the state to their causes. They are the visions of intolerance, the visions that have fed on political power to forcefully spread their agendas across the Western landscape. They became, and in some cases remain or hope to be, state policy. And they explain why public lands are neither citadels of freedom nor monuments to pristine nature, but rather mere prizes—sacrificial lands—in a contest of ideological wills.

The first of a triad of Western landscape visions bears the mark of its spiritual founder, Thomas Jefferson. Agrarian democracy, the religion of the yeoman farmer, sought a West peopled by cultivators. Prosperous farms and virtuous farmers would forge from America's Western wilderness a secular paradise, a City upon a Hill, where democracy and independence would be the principal harvest. The vision became law in 1862 with the passage of the first of many Homestead Acts.

But 160-acre homestead units (eventually upgraded to 640 acres) were woefully inadequate on lands too arid for crops and too sparsely vegetated to support more than a handful of cows per section. As a result, the landscape vision of a farmer's paradise degenerated into chaos as land-starved settlers fought over the open and unowned range. In the words of Albert F. Potter, first director of the Forest Service's Grazing Section:

"Flocks passed each other on the trails, one rushing in to secure what the other had just abandoned as worthless, feed

was deliberately wasted to prevent its utilization by others, the ranges were occupied before the snow had left them. Transient sheepmen roamed the country robbing the resident stockmen of forage that was justly theirs....Class was arrayed against class—the cow-man against the sheepman, the big owner against the little one—and might ruled more often than right."

The chaos of the open range, the effect of making ideology law, left two legacies. One was the devastation of hundreds of millions of acres of public lands. The other was the rise of Progressive conservation, the second of three encompassing landscape visions. As seen by its most prominent spokesman, Gifford Pinchot, first chief of the Forest Service, Progressive conservation was the antidote for the chaotic and destructive individualism of agrarian democracy. It would hitch America's best and brightest men and women to the cause of democracy and to the rescue of a nation blemished by self-interest and profligate waste.

Experts in the natural sciences, imbued with the spirit of public service and in step with the nation's will, would manage and exploit the Western range for the good of everyone. An elite cadre of managers and scientists would build a new City upon a Hill, one where the earth and its natural wealth would be the property of all and the common means to attain political equality and social justice. That vision became state policy with the creation of the U.S. Forest Service in 1905 and the Bureau of Land Management in 1946.

Today, Progressive conservation is alive and well on the Western range. Local Forest Service and BLM offices are as commonplace as the post office in most major Western towns. But institutional success is only skin deep. Three-quarters of a century of fire suppression has transformed once vibrant wilderness areas into thickening masses of bramble and trees unfit for man or beast. Below-cost timber sales in the majority of the nation's national forests have depleted natural ecosystems and robbed already hard-pressed taxpayers, while at the same time swelling agency coffers. And to harvest that subsidized timber, a maze of roads more extensive than the entire federal highway system has been carved out of pristine forests.

But private livestock grazing on public lands illustrates best the dismal environmental legacy of Progressive conservation. Grazing permits, for example, give ranchers informal property rights to numbers of livestock rather than to the land itself. Bought and sold as part of the private ranchlands to which they are attached, grazing permits authorize ranchers to graze fixed numbers of livestock on public lands. As a result, the ranchers' incentive is to pay more attention to preserving the livestock numbers authorized by their permits than to conserving the land that is entrusted to them. Moreover, federal policy actually rewards bad grazing practices. Both the Forest Service and the BLM have spent hundreds of millions of dollars bailing out badly managed and environmentally ailing ranches. Those dollars have kept the worst stockmen in business.

More tragically, federal policy has discouraged caring ranchers from adopting more innovative and ecologically sensitive management. For example, stockmen who would like to explore alternative economic uses of streams—such as quality fishing—simply cannot because their grazing permits allow them to use streams and streamsides only for watering holes and livestock feeding grounds. Similarly, ranchers who see greater economic opportunity in using their leased lands for wildlife and endangered species are prevented from doing so by federal laws which mandate that public forage can be used only for livestock production.

Lastly, federal policy has encouraged overgrazing (and will continue to do so under Babbitt's populist plan) by favoring ranching units that are too small to be economically viable. The 60 percent of all public-land ranches that fall in this category cannot practice conservative grazing or spare capital for land restoration. Making matters worse, federal policy has enshrined the tragedy of the commons on federal rangelands by perpetuating and fostering communal grazing. Is it any wonder, then, that two-thirds of all public grazing lands are in poor condition, that the majority of public-land streams are degraded, or that cattle and wildlife are locked in mortal combat?

The environmental trespasses of past landscape visions have infused a third vision with energy and passion. Anchored in the preservationist sentiments of John Muir, a nascent environmental landscape vision now seeks meaning and value in public lands beyond production of trees and consumption of grass. It seeks the protection and preservation of Western public lands as spiritual sanctuaries—the last outposts of nature unspoiled by the hand of man. There, amidst the wildness of America's public forests and grasslands, the human spirit can be cleansed, uplifted, and renewed, and a final City upon a Hill built on the ashes of the old. People can rejoice in and benefit from landscapes that belong to each and every American, constant reminders of what earth once looked like and what it might again become.

The environmental vision is rooted in an American tradition that has long envisioned man and nature as implacable foes. Writing shortly after the holocaust of the Civil War, America's first environmentalist, George Marsh, declared that "the earth was not, in its natural condition, completely adapted to the use of man." John Muir, the nation's first preservationist, lambasted homesteaders as "pious destroyers [who] waged interminable forest wars."

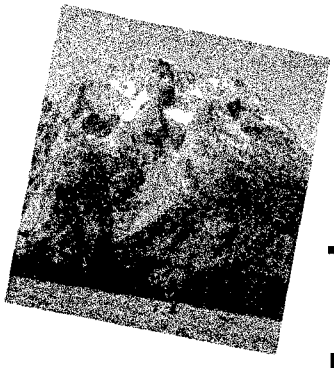
Frederic Clements, the father of American ecology, gave scientific credibility to the claims of both Marsh and Muir. He made it clear that European settlers were not a welcomed part of the Western range. They came to the arid West, he believed, as disrupters, exploiters, and usurpers of the land's vegetation. Humans were, in his view, alien and invasive barriers to the natural movement, or succession, of vegetation toward its destined end point: the monoclimax.

On Western rangelands, the monoclimax was presumably the vegetative cover that preceded the arrival of homesteaders: tall- and short-grass prairies on the high plains; old-growth forests in the high Rockies; and pristine desert grasslands and shrublands in the intermountain basins.

Those vegetation types—not dryland wheat or overgrazed ranges—embodied the biological potential of the land and stood for the ecological destiny that nature intended for arid landscapes. Whatever prevented or impaired their expression was ecologically wrong, whatever hastened their evolution was necessary, and whatever preserved their physical form was ecologically correct.

Fueled by Clements's ecology, the environmental vision has subsequently embraced a very narrow interpretation of Aldo Leopold's famous ethical dictum: "A thing is right when it preserves the integrity, stability, and beauty of the biotic community [and] wrong when it tends otherwise." By defining right and wrong in Clementsian terms, it has been easy for radical environmentalists such as Paul Watson, cofounder of Greenpeace, to conclude that "our species is the AIDS of the Earth."

It matters little to the environmental vision that modern ecological thought has moved beyond Clements's linear and deterministic world to the more dynamic and indeterminate universe of chaos theory—a universe where disturbance, unpredictability, individualism, and hidden yet spontaneous order are more characteristic of nature than the deliberate and unchanging features of the monoclimax. The environmental vision is unpersuaded by facts; it seeks solace elsewhere. Like the landscape visions of the past, it has hitched its hopes to the rising star of the environmental welfare state.



PROGRESSIVE CONSERVATION WAS SUPPOSED TO BE THE ANTIDOTE TO THE DESTRUCTIVE INDIVIDUALISM OF AGRARIAN DEMOCRACY.

The environmental vision seeks a communal Western range freed of logging and livestock grazing and dedicated to the ecological destiny revealed by Clements. Above all, it seeks to erase the human handprint from the Western range and to return prairies, mountain ranges, and deserts to the natural care and regulation of nature. Some environmentalists, for example, recommend a "buffalo commons" for the high plains. Cities and towns would be swept away and millions of people relocated from 10 Western states. In their place, the American bison would once again roam vast territories, regulated only by the primal forces of nature.

Sadly, the ecological track record of cleansing the land of men and women has been no better than the legacies of agrarian democracy and Progressive conservation. In Yellowstone National Park, natural regulation is an environmental travesty—catalogued in detail by Alston Chase in his 1986 book *Playing God in Yellowstone*. Elk are erasing wetlands from the park's northern range, playing havoc with everything from cottonwood trees to grizzly bears. In Rocky Mountain National Park, natural regulation is turning a high-mountain Shangri-la into an overgrazed elk pasture where willows, beavers, and aspen are fading into memory. And on Western rangelands, federal policies aimed at protecting or restoring natural conditions are forcing ranchers and loggers out of business, opening the door for massive subdivision of adjacent private lands and the unnatural fracturing of once intact ecosystems.

The so-called Wise Use movement is today's reaction to the regulatory excesses and no-use restrictions of the environmental vision. In part a wistful harking back to the halcyon days of Progressive conservation, it seeks government power to slice and dice the public-lands pie more to the liking of ranchers, loggers, and miners. But as a fourth-generation landscape vision and a sibling of the Progressive era, it has a potential for environmental harm that cannot be overstated. Like the visions before it, Wise Use seeks hegemony on the federal range—a monopoly over publicly owned resources.

The Wise Use movement strives to do what nature resists as a matter of ecological principle: to replace diversity with conformity, more information with less, and local control with centralized direction. Like its sister visions, it perfects what agrarian democracy began: an everlasting tragedy of the commons. Wise Use and no use, and their visionary antecedents, are simply building blocks of a formidable environmental welfare state that has brought more environmental ill than good to the lands that nobody wanted.

Sacrificial lands are the lasting legacy of all-encompassing landscape visions. Getting around those visions is the problem now facing President Clinton and his reform-minded interior secretary. Neither man, however, has shown

any predilection for real change. Babbitt's righteous crusade to reform public-land grazing—no less visionary than agrarian, Progressive, and environmental causes—translates into more state subsidies and more ecologically unwise state policies.

Babbitt believes that higher grazing fees will encourage better land stewardship. But if his goal was truly to improve land conditions, he would zero in on the myriad laws and policies that discourage stewardship. Instead, he wants to rebate grazing fees to ranchers who meet federal land-conservation targets. Never mind that such "incentive" systems failed miserably in the former Soviet Union or that grazing-fee credits, by whatever name, are still subsidies for private grazing on public lands.

To make matters worse, Babbitt says he wants to exempt small ranchers from higher grazing fees "to make a populist statement that it's good public policy to make sure the small guys stay on the land." Helping the small guys stay on the land, however, has the ominous ring of 1930s New Deal farm policy. It sounds great, and it is certainly warm and fuzzy, but as environmental policy it stinks. It will cast Babbitt as a knight in shining armor to the majority of the 30,000 ranchers who use federal lands to eke out a marginal living on nonsustainable ranches. But to subsidize and coddle thousands of ranchers whose management is a major cause of rangeland depletion will only add to the environmental deficit of a land savaged not by personal greed but by the trespasses of well-intended visionaries.

What is needed today is a new paradigm for public grazing lands. The lands that nobody wanted are now sought and desired by almost everyone. Single visions of the past, so out of step with the ecological needs of the land, are even more out of line with the demands of people for recreation, wildlife, aesthetics, and spiritual relief. A tragic history tells us that public-land policy that seeks more laws, more regulations, more centralized management, and bigger bureaucracies has not and cannot protect the environment of the West or serve the American people.

Constructive land-policy reform should include the following elements: 1) greater reliance on market forces to allocate and preserve natural resources; 2) termination of subsidies and privileged status for public-land ranchers; 3) expansion of access and opportunity on federal lands to all citizens; 4) increased autonomy and responsibility for individuals, families, and communities that rely on public lands for their living; 5) replacing disincentives for responsible land use with free-market incentives; 6) maximum decentralization of control; and 7) where possible, transfer of control or ownership of public lands to people whose vested interests lie in the protection and sustainable use of those lands.

In the broadest sense, what I advocate is a market of landscape visions. Such a market is simply a political and social environment where basic beliefs and underlying ideologies are left to the discretion of individuals and communities. It is, in many ways, like the American tradition of religious freedom. Landscape visions, which touch the soul no less than visions of spiritual salvation, are too important and too personal to be left to the vagaries of the state. How one lives with the land, like how one defines his or her relation to the Maker, is properly a question of choice and voluntarism.

At one extreme, a market of landscape visions could entail complete divestiture of the federal estate. In my book *Visions upon the Land*, I describe a proposal to give every American an equal number of transferable shares in the public lands managed by the Forest Service and the BLM. By establishing clear property rights, this plan would lay the groundwork for a competition among different visions of what the lands should look like and how they should be used. Individuals and groups could acquire or combine shares to create sustainable ranches, wildlife preserves, recreation areas, wilderness parks, or whatever else their personal visions and private means might allow.

Even without assigning actual ownership, the government can transfer power and control over public lands from behemoth bureaucracies to individuals, organizations, and local communities. A first step might be to make grazing permits fully transferable so that individuals other than ranchers could acquire them and use them for purposes other that livestock production. By unleashing market forces, this would be a first step toward making the Western range the province of caring and responsible people rather than the landed empire of empowered visionaries and all-powerful bureaucracies.

A market of landscape visions begins with a simple premise: Traditional markets serve the needs of the environment when government regulation is minimal and when property rights are secure and transferable. Under those conditions, incentives channel human action in environmentally desirable directions. In particular, people's sense of responsibility toward the land is stronger when they alone bear the financial risks of bad management and assume the potential benefits of superior management. Adam Smith's invisible hand makes choice and voluntarism the unwitting handmaidens of ecological good.

But a market of landscape visions goes one step further. Better incentives to deal kindly with nature are simply inadequate to correct all the problems that plague the federal estate. They might motivate ranchers to graze public lands more carefully; they might encourage public-land agencies to be more cost effective; and they might inspire citizens to be more conscientious of the public lands they use for recreation. But incentives alone would not unleash the potential that inevitably comes with many landscape visions. To crack the political hegemony that rules the federal range, more than incentives is needed. The answer is diversity.

Many minds and many visions generate the wealth of information that is needed to help keep environments healthy and ecological systems viable. And as long as those minds and visions operate by choice and through voluntary means, the market of landscape visions can become a proving ground. Like the services and products in traditional markets, which come and go according to how well they satisfy consumers, landscape visions will rise and fall to the extent that they meet

the environmental and ecological demands of the land. There will be no need for taxpayer bailouts. Unworkable visions—such as subsidized grazing and below-cost timber sales—will cease to exist. Rushing in to fill the vacuum of failed visions will be those that are gentler to the land and more responsive to the needs of people.

For citizens and their communities to become fountainheads of diversity on public lands, power and control must be devolved. In the past, federal policy and land bureaucracy have encroached on local sovereignty and have negated the ecological possibility of many minds—the promise and potential of their creativity, culture, and visions. Laws, regulations, and policies that today require public input into Forest Service and BLM planning have forced land agencies to listen, but they have not made citizens and their communities masters in their own lands. State-enforced visions still rule uncontested on the federal range.

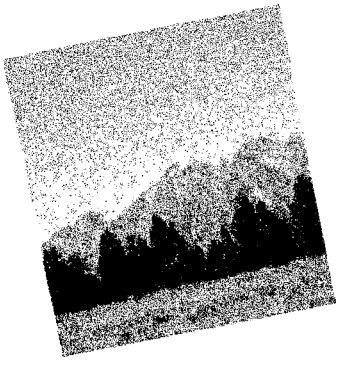
Information is also vital for a market of landscape visions. The information that is needed to make visions succeed—to building viable wildlife preserves or running sustainable ranches—must be abundant, accessible, and sought after. The abundance of information is a natural outcome of many minds and many visions. To make information accessible and sought after, markets of information must be freed of the distortions that subsidies and political intrusions inevitably bring. People will be more likely to seek out superior information, and should have greater success in obtaining it, when spared the disincentives of federal handouts and the interference of bureaucratic middlemen.

Expanding the number of active players on the public deserts, grasslands, and forests of the West will do three things. First, it will buffer the environment against ill-advised and all-encompassing visions. Human actions that are detrimental to the land will be limited in space and time. There will no longer be environmental mistakes on the scale of the Homestead Acts, fire suppression, below-cost timber sales, the federal grazing program, and the natural regulation of the nation's wildlands. Second, the possibility that highly desirable landscapes will be preserved or recreated will increase as more minds and visions find and try environmentally superior ideas. Third, the dreams and ambitions of all Americans will have more elbow room.

Arising from the market of landscape visions is one truth: that ecological good as defined by Leopold's ethical dictum is really indeterminant; there is no final answer to what is proper and right. What constitutes ecological good is as much a matter of opinion as it is a subject of science. If a landscape is viable—if a vision "tends to preserve the integrity, stability, and beauty of the biotic community"—then it is, by Leopold's test, right. On the federal range, this means that multiple possibilities rather than single solutions will determine the destiny of the land and its people.

Indeterminacy implies that the form or structure of visions and the landscapes they forge is less important than the way in which they are realized. Process, in the final analysis, is what a market of landscape visions is all about. It entails hardly an iota of ideology except the simple dictum that the affairs of people and nature are best left to their own devices, free from the political intrusions that have for so long forced them down unwelcomed and shortsighted paths.

A market of landscape visions and its ounce of ideology provide the environment of tolerance and freedom where visions can be mixed with the land. They form the tribunal where visions are judged against reality and where visionaries are held accountable to society and nature. The many verdicts passed down by this court drive the process of landscape visions inexorably in the direction of diversity and environmental excellence.



LIKE THE VISIONS BEFORE IT, WISE USE SEEKS A HEGEMONY ON THE FEDERAL RANGE—A MONOPOLY OVER PUBLICLY OWNED RESOURCES.

However pursued, land reform predicated on a market of landscape visions will finally achieve what Jefferson envisioned but the state never allowed. The second American Revolution will complete what the first sought but could not attain: a virtuous republic of independent, caring, and responsible stewards of the Western range—people whose visions will craft from public lands not one but many Cities upon a Hill.

Karl Hess Jr. is author of Visions Upon the Land: Man and Nature on the Western Range *(Island Press).*

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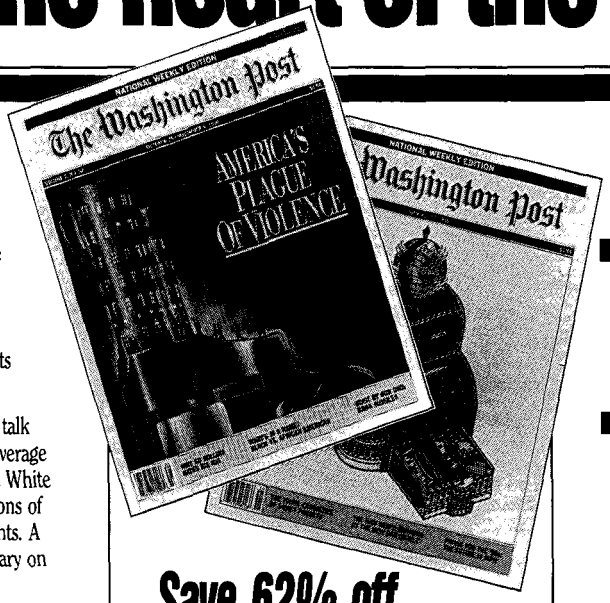

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CUT
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A
Budget
Roundtable

When Bill Clinton told Americans in February that the budget deficit was so serious that it demanded tax increases and "deep cuts in existing government programs," something strange happened. People believed him. The budget deficit became a serious national issue, at least for a few weeks. And, even on Capitol Hill, people started demanding more spending cuts.

By late March, the president was back-pedaling, suggesting that more cuts might not be such a good idea. But the seed has been sown. The deficit remains an issue (as Ross Perot pops up every now and then to remind us).

What's still missing, however, is serious talk about where the deficit came from and how we might really get the federal budget under control. To provide that talk, REASON asked four noted budget analysts to spend the afternoon discussing the subject.

Our roundtable included:

- Martha Phillips, executive director of the Concord Coalition, a grass-roots educational group chaired by former Sens. Warren Rudman and Paul Tsongas. Phillips is the former Republican staff director for the House Budget Committee.
- Norman Ture, president of the Institute for Research on the Economics of Taxation. Ture was undersecretary of the Treasury in the early Reagan administration.
- Daniel Mitchell, the John M. Olin Senior Fellow in Political Economy at the Heritage Foundation.
- William Niskanen, chairman of the Cato Institute and editor of *Regulation* magazine. He was a member of the Council of Economic Advisers from 1981 to 1985.

The roundtable was moderated by REASON Editor Virginia Postrel.

Virginia Postrel: Is the budget deficit a problem? If so, why?

Martha Phillips: The Concord Coalition was formed because we believe that the deficit is a problem, particularly for the long term. The country cannot continue indefinitely spending 23, 24, sometimes even 25 percent of GDP, while taxing itself 18.5 percent. The deficit has to be brought under control, so that we can increase net savings, so that there will be funds from America available for investment in this country's economic future.

Norman Ture: I think the deficit is a problem for an entirely different reason. The deficit deceives us about what the government is extracting from us. Its alleged adverse economic effects are really attributable to government spending. When the government spends, it removes our resources or directs their use, and that raises the cost of resources in the private sector. When the government taxes, it distorts our decision making. That's costly.

Daniel Mitchell: Federal spending is the problem, not the deficit. I don't ever lose sleep about the budget deficit. Federal spending is what measures the resources the government is pulling out of the economy, at least in terms of fiscal policy. If you finance that spending by taxes, that has ill effects; if you finance it with the deficit, it has ill effects.

William Niskanen: The deficit is primarily a moral problem. It leads to a redistribution of tax obligations away from the current generation toward the future generation. That would be appropriate if the budget were financing a major system-threatening war or a major temporary increase in public investment activity, but for the most part we are financing current public and private consumption by borrowing from our children without their consent.

Postrel: So what is to be done?

Niskanen: Well, arithmetically, the deficit can always be reduced either by constraining spending or by increasing taxes. The choice depends on how much the current level of federal spending is valued. The American public has no general comprehension of two conditions. One is that the total government spending in the United States is now over $20,000 per household.

The second is that it costs a good bit to increase taxes. [Harvard economist] Dale Jorgensen estimates, for example, that on average the last dollar of federal revenue costs about $1.50 in resources displaced from other uses. We should ask then whether there are any federal programs for which the last dollar of spending is worth a buck fifty.

Phillips: By and large, most people somehow have the idea that somebody else is paying for government programs. Congressmen who have been working on the health-reform issue say they've sadly had to conclude after reading all their mail that what their constituents want is every medical service that could possibly benefit them that somebody else would pay for.

So I would have to say that Norm Ture has a point. You've got to get your spending and your taxes calibrated in some way. If people want the services, they have to be willing to pay for them.

Ture: That's right.

Phillips: And if they're not willing to pay for them, then we'd better look at the services, benefits, income transfers, and what have you—

Niskanen: One major reform that would do more than anything I can think of is to take the Constitution seriously in terms of the limit on enumerated powers. The federal government has taken on functions that have no explicit constitutional authority. That includes many of our largest programs, including Social Security and Medicare, and we provide everything from babysitting to midnight basketball now through the federal budget.

Ture: When I was a sophomore at Ohio State University I had an economics professor who defied his class to name a single type of human activity in which the federal government wasn't involved. And nobody could actually meet his challenge. Now that was when the federal government was a tiny fraction of what it is now—in the days of Jefferson.

(Laughter.)

Niskanen: One way to make the tax cost of government spending much clearer is to devolve a great many federal functions back to the state and local governments. The primary reason why the states and local governments have been more constrained in their spending is that it is much more obvious who pays if they raise taxes. And, as a consequence, you have much more serious tax revolts and real tax constraints at the state and local level than you do at the federal level.

Postrel: Spending cuts are on the table for the first time in a long time as a good in and of themselves. In discretionary domestic spending, what would you cut?

Niskanen: May I suggest that that's not the place to start? Two-thirds of the federal program outlays are in defense, Social Security, and medical care. And you're never going to get control of the budget unless you're prepared to address those three big programs themselves. You can cut an awful lot out of all this discretionary domestic spending, but in fact it hasn't grown enormously, at least over a longer period of time. It did during the Bush years, but that's unusual.

Ture: What is the focus of the question, though? Is it reducing the aggregate amount or getting rid of things that the government ought not to do, as Bill suggested earlier? If you start from the latter perspective, I would nominate at the top of the list in the discretionary category—let's eliminate the Department of Education and its functions. Those activities ought to simply disappear as a federal function.

In the entitlement area, I think Bill's perfectly correct in saying this is where the big money is. The question here, too, is on substance rather than the number of dollars: Why is the federal government in the business of subsidizing health care for people by the mere fact that they've reached the age of 65?

Phillips: Or subsidizing retirement income for people who have adequate or far better than adequate resources outside of the government?

Ture: Why are they in the retirement income business at all? Why are they in any of the so-called insurance businesses at all? If you look at the performance of the federal government, that is not the insurance company you'd like to pay

premiums to for anything.

(Laughter.)

So what one ought to say is, what's the justification for these activities? And what do we do to eliminate all of that activity for which we cannot find a justification?

I could justify a Medicaid approach to Medicare. There are certainly going to be forevermore people who reach some age and cannot care for themselves. So we'll have a welfare program. Means testing, that's what ought to happen to Medicare. Indeed, that's what is in the process of happening to Social Security, but through the back door. We are striving to means test Social Security by taxing Social Security benefits to everybody who has an income above $25,000.

Martha Phillips

Phillips: That point of taxation is not indexed, so eventually it really will cover the vast majority of recipients.

Postrel: Is that the best way to get a handle on Social Security?

Niskanen: No, I think that the two proposals that we have made are both better and more politically realistic. One is to gradually increase the age for full retirement benefits by, let's say, two months a year beginning next year. And that would mean that the age for full retirement would go to 66 in the year 2000, 67 in the year 2006, and so forth. And do that indefinitely. If we don't, the ratio of workers to retirees is going to drop to about 2-to-1, and there will be an enormous burden on our children and their children to pay for this huge retired population.

The second reform is the proposal first made in 1976 by the Zschau Report. That would index the benefits of future retirees to prices and not wages. If we implemented the recommendations of the Zschau Report now, it would mean that real benefits of future retirees would roughly double rather than triple by the third or fourth decade of the next century.

"One of our big missions is to inform people and to get them beyond the waste, fraud, and abuse issue."

Phillips: You're assuming that wages are going to rise faster than prices, which is, of course, greatly to be hoped. But we have been through periods of high inflation where prices were going up much faster than wages.

Postrel: But what are you trying to do? Are you trying to maintain the standard of living? Then index to prices.

Niskanen: The political argument for the approach that we have proposed is that you don't touch the real benefits of those who are retired at the moment. What you do, in effect, is to reduce the growth of real benefits of those people who will retire in the future.

Postrel: What would be the budgetary impact of your Social Security reforms?

Niskanen: Very little in the next half dozen years, but literally hundreds of billions of dollars in the second and third decade of the 21st century.

It's important to start it now, because that will give people time to make their own life adjustments and change their own savings plans. Otherwise, to meet the presumed obligations of Social Security will require a substantial increase in the payroll tax—maybe a payroll tax of 25 to 30 percent instead of what is now about 16 percent.

Postrel: How do you get it beyond the perception that the problem in government is waste, fraud, and abuse?

Phillips: With great difficulty. We run into that the first thing at every meeting. One of our big missions is to inform people and to get them beyond the waste, fraud, and abuse issue. Government waste is terrible; it exists; of course you want to do something about it. But you can only do as much as you can do until you're spending a dollar to save a dollar. Once you've done that, what are you going to do for the rest of the budget deficit or the rest of the excess spending?

Postrel: Do any of you have any estimate of what waste, fraud, and abuse amounts to?

Niskanen: It's not a meaningful distinction. The reason that waste is there is the same reason that programs are there. It's because somebody in authority wants it. Waste is in many ways very much harder to dig out than the programs. The programs tend to have generalized benefits, whereas the waste has very specific, identifiable benefits in particular jurisdictions to particular named people and companies affected by and influenced by particular people in Congress and the Senate—

Ture: Who do not regard it as wasteful at all.

Niskanen: We should recognize that this $1.5-trillion budget is larger than the national economies of all but one or two other countries in the world. The idea somehow that we can run a huge economy almost the size of the Japanese economy out of Washington is a great illusion, and particularly the idea that somehow it could be run efficiently.

Ture: That's the kicker. We can run it, but we'll run it right into the ground year after year after year.

Niskanen: What Martha's organization is trying to do is the ultimate challenge for all of us—to make good politics

CHAS GEER PHOTOGRAPHY

out of good policy. We shouldn't expect members of Congress or the executive to be angels. We have to make the kinds of actions that are appropriate good politics, and until and unless we do that, then we're going to continue to have the problem.

Ture: What we haven't really come up with yet is a way in which public-policy makers have an incentive to economize. You can't simply dictate to them that they have to put the interest of the country above their own personal interest. They will assure you they have no personal interest; they're only looking out for their constituents, which is substantially true. That's their personal interest.

Daniel Mitchell

Phillips: Our Virginia chapter got interested in the question of federal pork, so they're going to go through the budget and identify all the Virginia ham. And then they are going to go back to their own members of Congress and senators and ask them about all this Virginia ham: In terms of our whole country and of our future, do we need this much ham in Virginia? People have to start doing this, defining some of this stuff, even when it's being spent ostensibly for their own benefit.

Postrel: I'd like to get you to react to something the president said recently in Santa Monica. He said, "What has happened is that, because we had a theory of government nonintervention, the deficit has exploded as taxes were lowered on the wealthiest Americans; health-care costs exploded; interest on the debt exploded; the cost of government continued to increase."

(Laughter.)

Mitchell: Everything in the statement is absolutely wrong, so it's hard to know where to start. "The cost of government is increasing." That in my definition means that there's not a policy of nonintervention.

If you look at real inflation-adjusted revenues to the government, they're up dramatically since 1980. The problem is, you look at spending and it's up even more. And it's actually up more in real dollars on non-defense spending than it is in defense spending, and it all does come back to the fact that the major entitlement programs, particularly health, have been what's driving the budget.

Ture: But don't forget the statement about taxes on the rich.

Postrel: "Taxes were lowered on the wealthiest Americans."

"Inflation-adjusted government revenue is up since 1980. But look at spending: It's up even more."

Ture: That indicates that there was a continuing program of tax reductions on the wealthy. There was one tax reduction during the Reagan and Bush years. That was the act of 1981. Every other act increased revenues, even the one that was supposed to be revenue-neutral.

And the 1986 Tax Reform Act had the effect of increasing the marginal tax rates on a huge part of that very narrow part of the population that we used to call the rich. We now have the rich as anybody who's got an income of $30,000 or more. So that's a larger part of the population.

(Laughter.)

Niskanen: Unfortunately, what President Clinton said is widely repeated—the idea that the revenue base in the federal government was gutted during the 1980s and that the rich made out like bandits. In fact, the federal revenue share of GDP was 19.2 percent of GDP in fiscal '89, and in the prior cyclical peak of fiscal '79 it was 19.1 percent of GDP. So there was no gutting of the federal revenue base.

Ture: Except by the recession.

Niskanen: Right. And of that share, the rich paid a higher share at the end of the period than they did at the beginning of the period. So the whole premise of the liberal attack on the Reagan years is inconsistent with the facts.

Postrel: Why, then, did the Reagan years, the Bush years, leave us with these very large deficits?

Niskanen: It's important to make it clear that the de facto economic policy of the Bush years was a very strong reversal of the policies of the Reagan years. Reagan's policy was to reduce the rate of growth of spending and taxes, regulation and money growth, and Bush's de facto policy was to increase the growth of spending, taxes, and regulation. And so it is quite misleading to talk about the Reagan-Bush era. It is much more meaningful to talk about the Bush-Clinton era, because almost every program that Clinton has proposed to increase in fact increased very sharply during the Bush years.

Now, of course, during the Reagan era the economic outcomes were also very different from the Bush outcomes. We had an unprecedented peacetime recovery. Total economic growth went up. Inflation came way down. Productivity went up substantially relative to the Ford-Carter years.

Ture: If you want to find an approximate explanation for the spurt in the deficit, you have to look at the 1980-82 recession. It's not that the growth rate of revenues thereafter fell; it's just that the level from which they were rising was

devastated by the recession.

Phillips: There were two other things going on also. The defense buildup began actually at the end of the Carter administration, but Reagan had campaigned on the need to build up our defenses against what was going on in the Soviet Union. He got elected and then had to carry through his buildup, notwithstanding the fact that a buildup had already begun. So he put a buildup on top of a buildup, and up through 1985-86 we continued just flooding the Defense Department with money. They had everything they could possibly want. Then spending started gradually tapering off after that.

Virginia I. Postrel

Also, inexorably through the 12 or 13 years that we're talking about, we have had runaway entitlement spending.

Mitchell: A lot of people don't understand that after peaking at 6.3 percent of GDP in 1983, largely due to the recession, the budget deficit did come down substantially, down to 2.9 percent of GDP by 1989. There were several factors in there, one of which was Gramm-Rudman, one of which was economic growth. The two terrible things George Bush did were he got rid of economic growth and he got rid of Gramm-Rudman.

I'm a firm believer that the only way we're really going to get spending under control is by having automatic cuts. I don't think Congress will ever overcome the political problem that Norm was outlining earlier. And now that Congress knows the way Gramm-Rudman works, the chances of them going back to it are slim to none. So what Bush did in 1990 was a real disaster, and I think we'll have a hard time getting on a downward deficit track that we were on in the 1980s—

Phillips: Then you must think that there's a very slim-to-none chance that Congress will pass the constitutional amendment to require a balanced budget.

Mitchell: Slim-to-none is probably a generous estimate.

Ture: There are two dimensions to this problem. One is what would work. The other, of course, is the political dimension. Now if you can escape from that, following up on what Dan suggests, I would commend the Walker-Smith proposal.

Postrel: Explain that.

Ture: The Walker-Smith proposal is the debt buy-down proposal. Individual taxpayers could designate up to 10 percent of their income-tax liabilities each year to be allocated to a trust fund, the sole function of which would be to buy outstanding debt in the hands of the public. And for each dollar of such debt reduction, there would have to be a dollar of current spending reduction. If, in fact, we could have a rule of that sort, it would be extremely effective.

Phillips: What do you think about the new Congress? Most of these new people were elected because they wanted to change; they wanted radical new direction; they weren't running for the same old business as usual. And now that they're here one of the first things they tell President Clinton is, "You didn't cut enough—we want more spending cuts." Is this a sea change?

Niskanen: I think it's much too early to be too enthusiastic, but I'm encouraged. I find a different mood among the new people in Congress, and there are new people on the House Budget Committee, and that's all very encouraging.

"Spending cuts are on the table for the first time in a long time as a good in and of themselves."

Mitchell: Let's not forget, though, that under the Clinton plan, government is going to spend $300 billion more in 1998 than it is spending today, and the supposed deficit hawks at the House Budget Committee were talking about affecting maybe about $10 billion per year of that surging growth. And the Senate, where they're talking about more cuts, they're talking in large part about additional tax increases. Again, we come back to the problem: It's not the deficit that we should be focusing on; it's spending.

Even for those who are concerned about the deficit, higher taxes won't work because we know two things: With the expectation of higher revenue, they're going to spend more money. And, number two, they're not going to get the revenue they project, especially since they're going after taxes where they're going to cause widespread behavioral changes. A lot of the revenue is going to evaporate.

So I'll bet anybody right now that if the Clinton plan goes through in anything resembling its current form, the deficit will be much, much higher—probably by at least $50 or $100 billion—in 1997 than it is today.

Phillips: Well, '97 is only part of the problem. If you look at the next decade under the CBO baseline, you will see that they are projecting, even taking into account the Social Security trust fund surpluses, that by the year 2003, we would have a deficit of $650 billion. The Clinton plan, if fully implemented and carried out for that same 10-year period, using OMB's own projections and figures, takes that down to $400 billion.

But the amount of his deficit reduction does not increase

over time. That's why you need things like the Social Security proposal that Bill is making, to have something that comes along in the second half of the decade and produces long-term changes to reduce these costs of entitlements.

If you enact the Clinton plan, you're going to have to come back in another year or two or three and enact another Clinton plan, because this is not going to be enough to solve the long-term problems.

Ture: Martha, is it your understanding that either the House or the Senate Budget Resolution draft includes getting rid of the Clinton investment spending?

Norman Ture

Phillips: I don't believe so.

Ture: One good way to start off on an economizing program is persuade the president simply to drop those proposals entirely as a complete package. Just forget them.

Postrel: But from a number of statements that the president has made, it seems his whole concern about the deficit is that he's worried that the combination of interest payments and entitlement commitments will leave Congress and the president with no money to play with for new programs.

He has said a number of times he is afraid that they will only have six or seven cents on the dollar to fund new programs. So the "investment" programs are what the entire thing is about. I don't see much chance that he would drop them.

Ture: You're absolutely right. When I look at his overall budgetary scheme for an extended period of time, through 1998, the thing that comes through to me is that he's using the deficit as a scare device to say we have to raise taxes because spending reductions will never be adequate, for political reasons, and we also need to reduce the deficit because we need to increase investment.

"There was one tax cut during the Reagan-Bush years. Every other act increased revenues."

But what kind of investment does he intend to increase? He intends to increase "investment"—I then put quotes around the word—in the public sector, and by virtue of the very stiff tax increases reduce it in the private sector. So the overall thrust of this program is to shift the saving and investment function from the private sector to the public sector.

Niskanen: Virginia, there are two areas now that we should address. One is defense and one is general government management.

The Cold War is over. The United States no longer faces any major threat to our national interest. My own view is that we should be prepared to cut defense a good bit more than Clinton has proposed. Three or four responsible groups around this town have been working on a defense budget for '97 and '98 that will be roughly half in real terms what it was in '92.

At that level of defense spending, you would have a force that would be more than adequate to meet any threats that might arise from short notice and enough of a mobilization base to meet any kinds of threats that would arise over a much longer period of time. That would permit taking out of defense another $60 or $70 billion in 1998 relative to what Clinton himself has proposed. The implications are that we probably could not mount an operation as large as Desert Storm without relying heavily on the Guard and reserve forces.

Phillips: And on other nations, even more than we did.

Niskanen: That's right, and other nations.

Now my own view is that that is a desirable check on our military forces. We are much less likely to commit ourselves to low-priority interventions abroad.

As for federal-government management, we have two areas that we should look at carefully. One is federal pensions. The military pension system is completely unfunded and the civil service pension system is substantially underfunded. Civil service and military pensions are much higher than in the private sector. And they're about the only pensions in this country that are indexed for inflation. We need to change those substantially.

Now, again, that has to be phased in, much the same way as for Social Security, because people who are now retired or near retirement have made their life plans based upon those pension expectations. But we should change the conditions when we recruit new people in the military or into the civil service, so that they don't expect pensions before they're age 65 or maybe after 40 years of service.

In addition, we need to address the structure of federal pay. Federal pay in many cases is too high and in some cases is probably too low, because we don't have a regional pay structure in the white-collar work force. In many parts of this country federal jobs are a prize, and in some parts of the country we have difficulty recruiting qualified people. So we need to permit more variation as a function of skill and of place of work. And on the average, we can probably even reduce federal pay.

Ture: I'm not sure that I fully agree with Bill on the subject

of what we ought to do with the defense budget. What we've done is to approach it in terms of how many dollars we can get out of it. The appropriate way to address it, in my judgment, is to say, "By virtue of the change in the world situation, what are the appropriate programs for the Department of Defense?" They need a new mission statement.

Postrel: But there's also the issue of pork. We see this with our would-be deficit-cutting president, so-called. He likes Seawolf—and who else likes Seawolf? People in Connecticut. And we in California are suddenly discovering that even Barbara Boxer may have a good thing or two to say for military spending. At a time where everyone agrees that some substantial cuts in the defense budget are in order, what do you do to get it done in a non–pork-barrel way?

William Niskanen

Mitchell: I don't think you can. As a matter of fact, one of the safer predictions about the Clinton plan is that they won't get anywhere near the defense cuts they're showing because even the Democrats in the House have shown a reluctance to follow through on all their chest thumping about cutting defense.

Postrel: On the other hand, there has been some success in base closing by lumping—

Mitchell: The base closing, though, is similar to Gramm-Rudman.

Phillips: They knew they could vote for the package; they couldn't vote for the specifics one by one. The package—

Mitchell: They had to be sure that they couldn't amend it, that it was all a deal. Take it or leave it.

Postrel: Right.

Mitchell: If we could expand upon the base closings commission idea, we could get something similar to Gramm-Rudman, where they could then go to their constituents and say, "I had no choice. This happened in spite of my hard work on your behalf."

"Deficit forecasts can mislead. Tax hikes don't yield the revenues static models predict."

Postrel: Perhaps you'd each like to make a closing statement.

Mitchell: The Clinton program is based on the same dubious logic and flawed assumptions of the 1990 budget deal. It's probably going to go through largely intact. It will fail miserably. He's going to come back for a second or third bite of the apple—depending on where you count health care—in 1995, right after the mid-term elections. And we'll get in this downward spiral where we pass bad fiscal-policy laws, which hurts the economy, which drives up the deficit, which encourages more bad fiscal policy.

Probably the only chance we have is that Clinton will set the stage for some as yet unknown, good Republican in 1996, the same way Jimmy Carter set the stage for Ronald Reagan. Hopefully, we'll get a little bit more progress in 1996 than we got out of Reagan. Reagan, I think, just largely held the line.

Postrel: Martha?

Phillips: The Concord Coalition was pleasantly surprised and pleased that Clinton put deficit reduction at the top of his list. We hadn't expected that.

But we do not expect that our mission is going to be accomplished over the next four years. Our mission is to eliminate the federal deficit over a reasonable period of time, and it's going to require a lot of educating and energizing of people across the country to make sure that their elected officials understand that we still have a very serious problem.

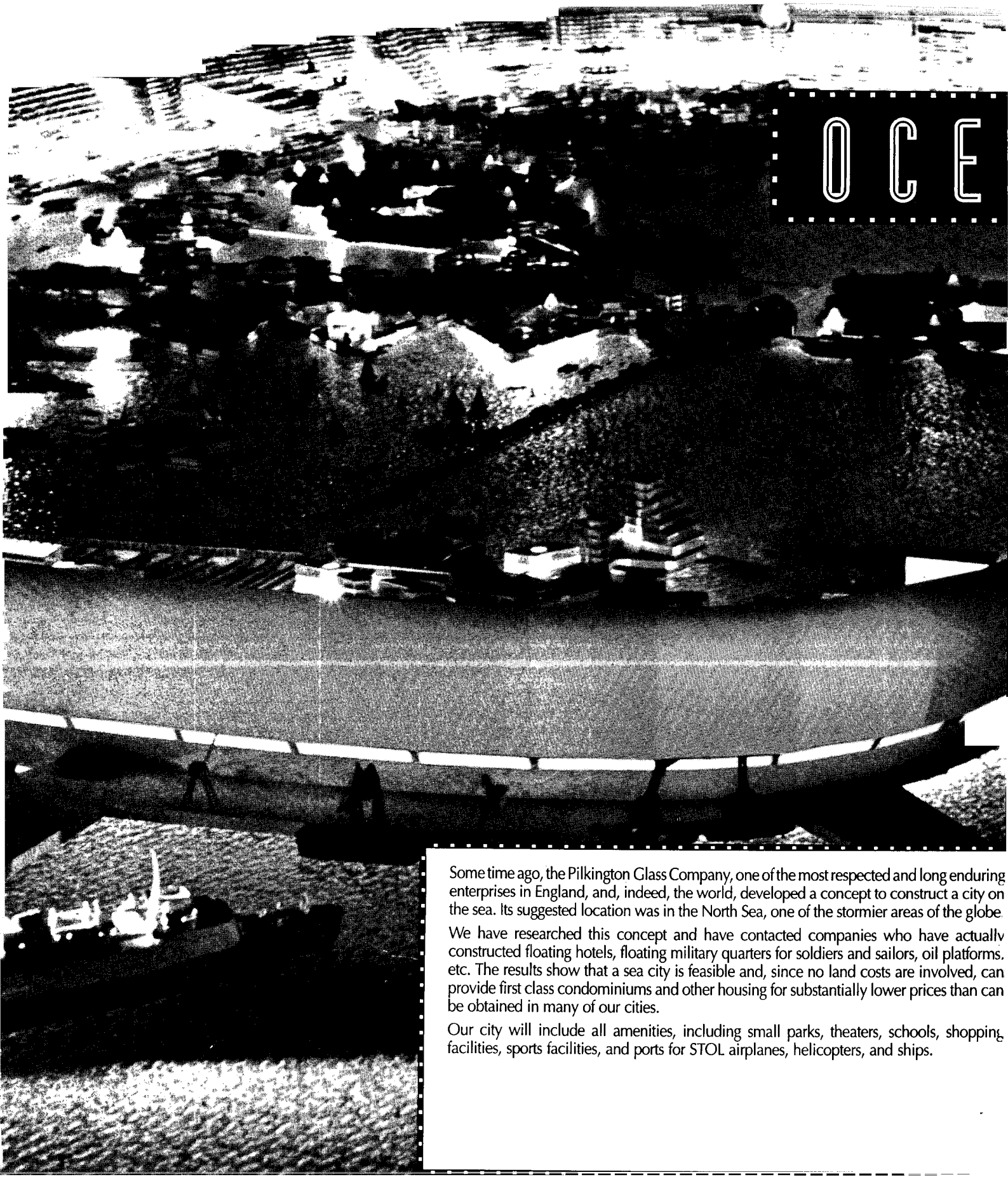
Niskanen: President Clinton was correct to make deficit reduction a major priority. He was incorrect to focus the deficit reduction almost entirely on the tax side. My own arithmetic suggests that he has proposed something like $6.20 of taxes and fees for every dollar of spending reductions and that the net amount of spending reductions is smaller than the amount that he's taking out of defense alone.

The deficit forecasts are likely to be misleading, because tax increases do not yield the revenues that are projected from a static model. And many of the spending cuts are one-time management reforms that do not affect the long-term programs. So spending and the deficit will grow very rapidly again in the 1998 period and beyond.

Ture: It seems to me that what Mr. Clinton should be about—and it is my judgment that he isn't—is reducing the role of the government's activity in the overall economy. Indeed, he's quite explicit that the government's role should be expanded. That makes the question of deficit reduction for me not even a secondary issue.

If you look at an administration that says the government ought to have a larger scope of responsibility throughout the economy and try to reconcile that with a program for reducing the deficit, it seems to me one could very well raise the question, Why bother to reduce the deficit? If spending is to increase, if that is a basic part of the Clinton program, then it seems to me that's what we should be opposing.

Postrel: Thank you all very much.



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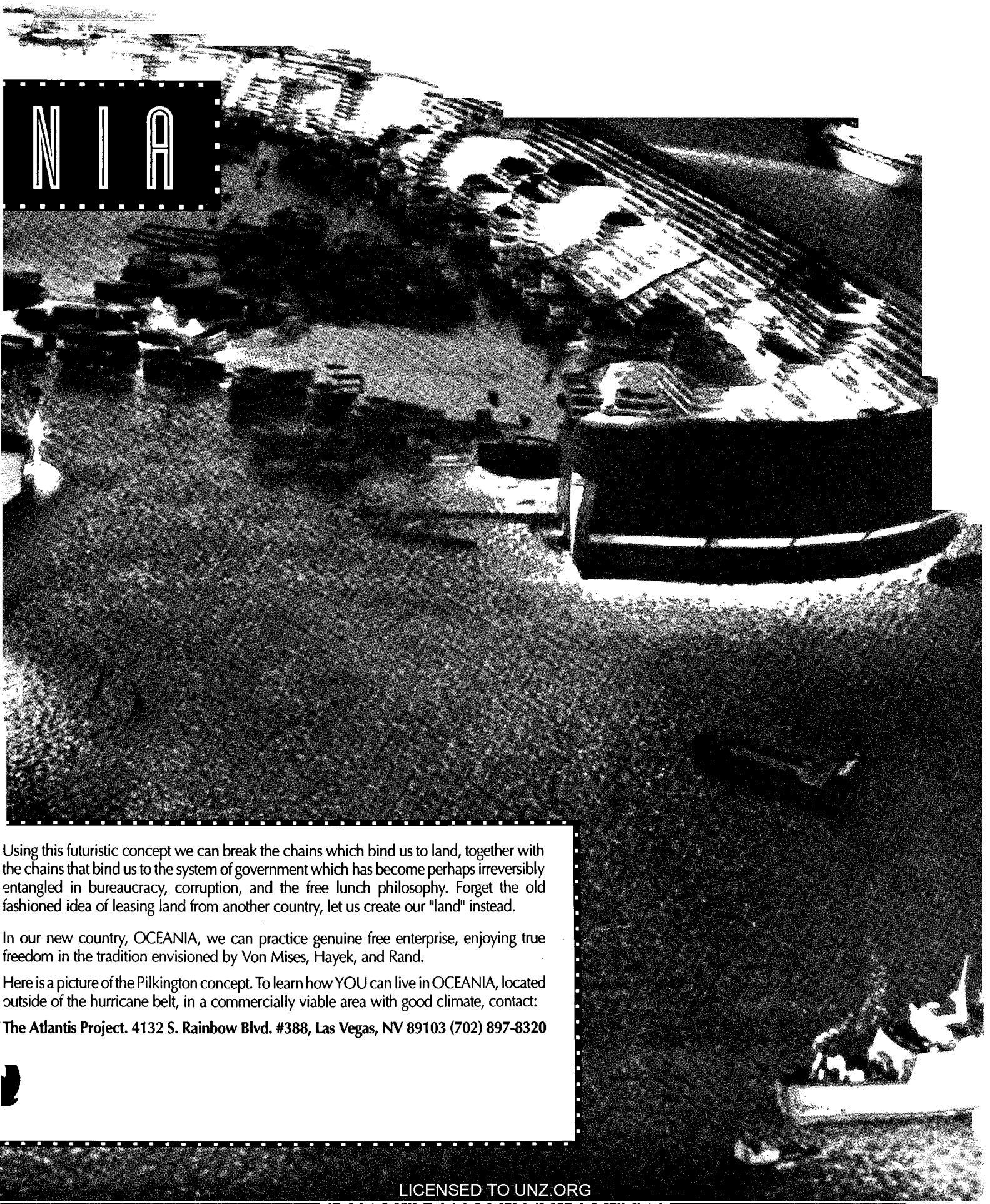

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FEAR OF PHONING

BY MICHAEL FUMENTO

I don't mean to scare anyone, but it has recently come to my attention that Michael Landon, Lee Remick, Lyle Alzado, and Audrey Hepburn all used regular, noncellular phones frequently prior to their deaths of cancer.

And it gets worse. It seems that close to 100 percent of all American adults who have died of cancer in the last several decades have regularly used telephones. Moreover, countries with significantly lower numbers of phones per capita also have significantly fewer cases of cancer. Indeed, U.S. per-capita cancers are much higher now than they were 100 years ago, when telephones were rare.

FEDERAL STUDY TO DETERMINE WHETHER CELLULAR PHONES CAUSE CANCER
FEDERAL STUDY TO DETERMINE WHETHER BLOW DRYERS CAUSE CANCER
FEDERAL STUDY TO DETERMINE WHETHER BEING BORN A PISCES CAUSES CANCER
FEDERAL STUDY TO DETERMINE WHETHER RAP MUSIC CAUSES CANCER
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UNITED FEATURE SYND.

Yes, I jest—though all of the data I just presented are true—and yes, I needed to point out quickly that I was jesting. For the "C-word" throws moderns into such a tizzy that they have great difficulty thinking straight. Witness the havoc wrought when one non-doctor, non-scientist, David Reynard, appeared on *Larry King Live* and announced that his wife used a cellular phone, his wife contracted and died of cancer, and therefore the phone caused her cancer.

How much different are we from our ancestors who blamed their ills on black cats who crossed their paths? Back then, unexplained ills were blamed on witchcraft; today the blame goes to technology. But the similarities are myriad, including the fear of the unknown or the little understood and the psychological need to blame someone or something else for one's misfortunes.

Consider the situation covered heavily in the New York press in which Long Island women have formed an activist group after discovering that their incidence of breast cancer is slightly above that of the country as a whole. Epidemiologists have explained to them that cancers don't evenly distribute themselves everywhere and that women on Long Island have factors that predispose them to a higher risk. A vociferous group of women on the island doesn't want to hear such explanations.

Their chairwoman said researchers should turn their attention to the environment—be it power lines, herbicides, or anything else man-made—because "women are tired of being told it is because of their educational background [a marker for the risk factor of having children later in life or not at all], their high socio-economic status, their ethnic background, and their age that they are prone to this illness."

Or consider the Massachusetts couple who initially decided that their child's cancer must have been from herbicides sprayed on their lawn but later decided that, no, it was actually the power lines strung overhead. Consider David Reynard blaming a cellular-phone company for his wife's brain cancer, even though brain cancers, like other tumors, take many years to develop and his wife showed symptoms within months of beginning to use the phone. Bring me the head of Commonwealth Edison! Or Dow Chemical! Or NEC or Motorola! But bring me *somebody's* head on a platter!

Superstition and technophobia both have something of a religious element. Technophobia's religion is that natural is good and synthetic is bad. Take the Alar scare, launched three years ago by the Natural Resources Defense Council (NRDC), with a nice boost from *60 Minutes* and actress Meryl Streep. The evidence against this apple-growth regulator was that it may have been responsible for causing tumors in one species of laboratory animal given 288,000 times what a human would normally ingest. By that same standard, half the synthetic chemicals tested and, yes, half the natural chemicals tested have also proven carcinogenic. Giving them all the Alar treatment would make us starve to death long before we had a chance to develop tumors from cellular phones.

Yet with the die-hard technophobes, even this knowledge will not sway them from their religion. On a *Donahue* show concerning chemicals in food, after one of the guests pointed out all the animal carcinogens that are present in natural foods, one audience member stood up and said, "I would rather take a chance on eating natural food, even though it has cancer in it, than you putting chemicals in my food to give me cancer."

Perhaps the greatest irony of this mania is that technology truly is the cause for the great increase we've seen in cancer in the last half of this century—but not in the sense that so many

HENRY PAYNE

have been led to believe. It is technology that has allowed Americans and those living in other industrialized countries to live long enough for heart disease and cancer to become the big killers. You don't find too many Somalis worrying about these diseases. "May you die of cancer" would probably be taken as a blessing in that country. UCLA epidemiologist James Enstrom has calculated that if mortality rates from 1940 were applied to 1988, 4 million Americans would have died that year. Instead, only 2.2 million did. Naturally, a greater percentage of these 1988 deaths were from the diseases associated with old age.

Technology has made us safer both directly and indirectly. Synthetic pesticides assure us a plentiful and cheap supply of fresh fruits and vegetables; power lines give us light and warmth that formerly were provided by such terribly dangerous and polluting substances as kerosene and coal, and they give us coolness that was simply unavailable; cellular phones are regularly used to transmit emergency information concerning traffic accidents and crimes; automobiles have rid us of streets paved with pony poo and the terrible diseases that accompanied it; food irradiation could have prevented the recent outbreak of bacteria from fast-food hamburgers that has killed three children and made hundreds of persons ill, but the irradiation technophobes have managed to keep it practically nonexistent in the United States.

Further, by replacing brute force with electronics and machinery, technology has made us more efficient and tremendously increased our productivity. Ask most any writer where he would be without his word processor—a device not incidentally blamed for cancer, miscarriages, and cataracts despite the utter lack of evidence. A more productive society is a wealthier and hence healthier society. More money means catalytic convertors, smokestack scrubbers, air bags, treated sewage, more food, better health care, and so on.

Technophobia is by no means new. The 1950s were filled with monster movies about science run amok and creating giant women, ants, spiders, lizards, praying mantises, and the like. Some of us recall the fluoride hysteria that began about half a century ago when towns began fluoridating their water supply. In one such town, the local health office received citizen complaints that fluoridated water was discoloring their saucepans, that it was giving them digestive troubles. One woman complained that the "fluoride water" had caused her dentures to crack. All of these complaints came in before the city actually began to fluoridate.

It is technology that has allowed people living in industrialized countries to live long enough for heart disease and cancer to become the big killers.

The difference between then and now is that back then, if you wanted to spread the word that fluoride was a communist plot, you were generally relegated to insignificant, small-circulation journals. Now when you blame technology for making the sky fall you can get your mug on CNN's *Larry King Live,* ABC's *20/20* (which did its own cellular-phone scare), or CBS's *60 Minutes* (which launched the Alar scare). And we all know about NBC and its cute trick with the rockets and the G.M. pickup.

ABC, to its credit, did do a *Nightline* segment on technophobia following the cellular phone scare, but when it comes to fear of technology, the media clearly have taken the advice of Bing Crosby's song: "You've got to accentuate the positive; eliminate the negative; latch onto the affirmative...." After Swedish researchers released the results of their study last year that seemed to show a positive correlation between childhood leukemia and power lines, the news appeared in over 80 references on the Nexis system. Two different British studies, from the year before and the year before that, both of which showed negative correlations, made zero references on Nexis. Consider also that the British studies were both presented in a prestigious peer-reviewed medical journal, while the Swedish study has never appeared in any medical journal and was never even translated into English.

Likewise, a Nexis search a few weeks after Reynard's accusation revealed that an experiment at the Medical College of Virginia in which microwave frequencies appeared to stimulate the growth of human cancer cells in a petri dish outnumbered by more than five to one references to an experiment at Veterans Affairs Medical Center in Loma Linda, California, in which they did not. This though the Virginia study looked at frequencies above and below that used by cellular phones and the California one looked at exactly that used by such phones.

With the media and the environmental groups lined up on one side of the issue and the folks on the other side—the manufacturers—having a clear pecuniary interest, it's not hard to see why technophobia is becoming a national mania.

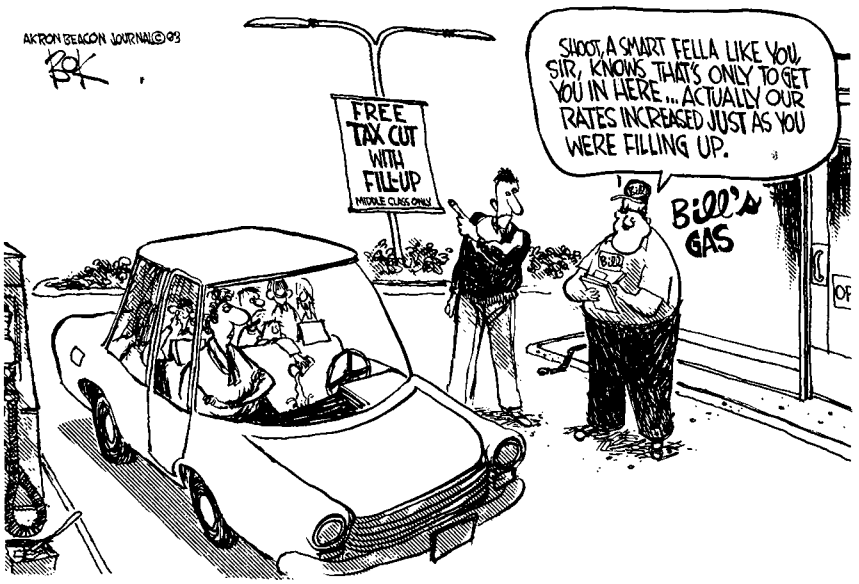
Having mentioned the fluoride hysteria, it bears noting that the next wave of environmental technophobia may well be chlorine in water. Despite its tremendous disease-fighting properties, chlorine is nonetheless something that does not occur naturally in water. Moreover, chemically it is a distant cousin (very distant) of dioxin, which was the subject of earlier scares itself, based primarily on its harm to guinea pigs. Nevertheless, dioxin studies on other lab animals found no effects at any dose, and repeated studies of dioxin on human beings, even at massive doses, have failed to reveal a carcinogenic affect.

But then, isn't making the world safe for guinea pigs what it's all about?

Michael Fumento is a science and economics reporter for Investor's Business Daily *in Los Angeles and the author of* Science Under Siege: Balancing Technology and the Environment *(Morrow).*

POWER MOVE

BY JEFF A. TAYLOR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Bill's GAS

When he unveiled his energy tax in February, President Bill Clinton described it as "the best way to provide us with revenue to lower the deficit because it also combats pollution, promotes energy efficiency...and because it does not discriminate against any area." Though Clinton may have believed what he told Congress, his tax on British thermal units (BTUs) does not meet any of those criteria very well. In some cases, it could thwart the administration's goals.

Taxing BTUs rather than, say, gasoline is an attempt to treat all energy sources equally. A BTU is the amount of energy needed to raise the temperature of a pound of water from 39.2 degrees to 40.2 degrees; it's equivalent to 252 calories. Diverse energy sources can be put on the same tax scale by measuring them in terms of how many BTUs they produce. For example, a barrel of crude oil contains about 6 million BTUs. The average ton of coal contains about 20 million BTUs. So an average ton of coal is equivalent to about 3⅓ barrels of oil. In theory, taxing BTUs is the purest way to tax energy.

But a BTU tax is a lot simpler in theory than in execution. For starters, you need to decide whether the BTU tax will be imposed on the fuel itself or on the energy that is actually produced for use. (In the case of hydroelectric power, taxing the "fuel" itself, prior to energy production, presents a serious conceptual problem.) Will coal headed for a power plant be taxed at the mine? At the plant? Or will the electricity produced by burning the coal be taxed instead?

More importantly from a political standpoint, a nice, pure, flat-rate BTU tax—unlike, for instance, a dollar-based sales tax—would raise the prices of some energy sources more sharply than the prices of others. One hundred dollars' worth of coal, for instance, contains more BTUs than $100 worth of oil, so coal would be hit harder than oil. Similarly, homes connected to a nuclear power plant would see their electric bills increase more than homes hooked up to a coal-fired plant.

To compensate for some of these disparities—and to appease powerful members of Congress—the Clinton BTU tax is not flat. In a tilt toward coal and natural gas (and toward West Virginia Sen. Robert Byrd and White House Chief of Staff Thomas McLarty, a former natural-gas executive), oil would be taxed at 60 cents per million BTUs, while coal, gas, nuclear, and hydroelectric power would be taxed at 26 cents per million BTUs. So much for treating all fuels equally.

Nor does the BTU tax live up to the president's promises of fighting pollution. It simply does not distinguish between more- and less-polluting energy sources in any systematic way. As a result, even the Environmental Protection Agency projects the pollution reductions in tenths of a percent.

And that's optimistic. In some cases, this supposedly green tax may actually work against environmental goals. It will, for instance, increase the cost of low-sulfur Western coal relative to high-sulfur Eastern coal by jacking up the cost of transporting the coal across the country. (Most coal-fired power plants are in the East or Midwest.) "The added cost would be small, about 2 cents per million BTUs," acknowledges Ronald McMahan, an analyst for Resource Data International in Boulder, Colorado.

But the effect may not stop with transportation costs. Western coal mines pay higher royalty and severance tax rates than Eastern mines; both kinds of taxes are based on the price of coal as it leaves the mine, a price that may include the BTU tax. If the BTU tax is imposed on the coal as it leaves the mine, rather than when it arrives at the power plant, low-sulfur coal will get hit with a double tax whammy—and put at a further disadvantage relative to more-polluting Eastern coal.

Another way the BTU tax could increase pollution is by favoring ethanol, which the administration wants to exempt from the tax. Although gasoline mixed with ethanol is on the EPA's list of environmentally friendly "oxygenated fuels," it produces more volatile organic compounds and formaldehyde than regular gasoline.

Whatever the details of the BTU tax, the claim that it will promote efficiency seems to be based on the undisputed fact that it will make energy more expensive. But if higher prices promote efficiency, why not impose new taxes on everything?

CHIP BOK

Wouldn't a tax on such essentials as clothing, food, and shelter discourage waste of them as well?

In arguing that taxes promote efficiency, the Clinton administration has it exactly backward. Prices that reflect the interaction of supply and demand promote efficiency. Taxes, by distorting market signals, promote inefficiency. A BTU tax, for example, will lead businesses to overinvest in energy conservation and to reject opportunities that would otherwise have been profitable. Discouraging consumption is not the same thing as encouraging efficiency.

But the BTU tax's greatest sham is its claim of regional fairness. The tax not only puts Western coal at a disadvantage but also could cripple the oil industry of California. California oil has to be forced out of the ground with high-pressure steam, usually produced with heat from natural gas. Philip Verleger, a fellow at the Institute of International Economics, estimates the BTU levy will add 50 cents per barrel to the cost of producing this heavy oil.

And the Northwest, which relies heavily on clean hydroelectric power, will be hit hard by the tax, which falls most heavily on energy-intensive manufacturers such as Boeing. Just weeks after he announced the BTU tax, Clinton commiserated with the Seattle company's workers, suggesting that unfair European competition was to blame for 28,000 layoffs. He didn't mention that Boeing would be walloped by his new "pollution" tax, even though 86 percent of Washington state's energy comes from renewable hydro power. In addition to increased energy costs, Boeing will face higher prices for U.S. aluminum.

Boeing's troubles won't end there. Its customers in the already shaky airline industry stand to be hit with $2 billion in higher operating costs, according to estimates by the Airline Transport Association. Meanwhile, the Clinton administration is considering special investment tax breaks and government loans to help the weak airlines. So the federal government could end up doling out money to compensate for the burden imposed by collecting it. There is bipartisan support in Congress for the simpler approach of exempting the airlines from the BTU tax altogether.

As exemptions multiply, the administrative costs of the tax will go up and the already modest revenue will fall. The nation's public-transit systems—the very same ones targeted for more infrastructure spending—are busily lobbying for tax relief. Diesel fuel to run buses and trains is expected to jump by 8 cents a gallon. And because the BTU tax will not be levied at the pump (unlike other motor-fuel taxes), an exemption will be tough to implement. The same will be true of electric light-rail systems: The tax can't tell who is using a kilowatt-hour. Nonetheless, Chip Bishop, a spokesman for the American Public Transit Association, hopes an exemption for such "public enterprises" can be designed. If not, either fares or state and local government subsidies (or both) will have to increase.

The prospect of higher transit subsidies is not the only added cost facing the states. States will see their gas-tax revenues go down as the BTU tax pushes the price of gas up by 7 cents to 10 cents a gallon. A National Conference of State Legislators position paper notes that the rise in gas prices may depress consumption and cut into gas-tax revenues. But the nation's governors, always suspicious of federal excise-tax hikes that threaten state revenues, have been reluctant to criticize the BTU tax out of fear that it will be replaced by a federal sales tax.

A broad BTU levy would hit things—renewable energy, airlines, the poor—that Clinton claims to favor. How did a policy team replete with Rhodes Scholars come up with an idea so inimical to its own values? Maybe the contradictions were overlooked in the rush to build "a comprehensive plan." Perhaps Clinton expects to fix the problems in Congress. But if one set out to create more voters dependent on federal assistance programs and more suppliant industries eager for special treatment, a BTU tax would be an excellent start.

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HOLLOW THREATS

BY MARTIN MORSE WOOSTER

You'd think that after 200 years of sound advice by economists, politicians would finally have figured out that free trade leads to growth, prosperity, and fortune, while protectionism leads to autarky, depression, and despair.

But it seems that the Clinton administration is determined to continue the addiction to protectionism that blighted the Republican administrations of the 1980s. And some people are calling for huge bureaucracies to pile more bricks on top of our already high tariff walls. Perhaps the most ardent trade warrior is *National Journal*'s Bruce Stokes, writing in the Winter *Foreign Policy*.

While Stokes does support some measures that expand trade, such as the North American Free Trade Agreement, most of his proposed changes are designed to end what he calls "the ideological blind alley of laissez faire." Stokes supports President Clinton's efforts to create an Economic Security Council, and he also supports a new Department of International Trade and Industry (DITI) to oversee America's trade policies. Had this department existed in the 1980s, says Stokes, it could have given money to auto companies for research, supervised import quotas, and "required industry and labor to make sacrifices of their own, limiting wage demands, workplace rules, executive compensation, and investment options."

Stokes also wants to create a Trade Corps, a group of public-spirited civil servants who would work on "the development of common strategies on trade issues that transcend narrow departmental approaches." And to make sure that all these new bureaucracies are doing their jobs, a Congressional Trade Office would be set up to be a legislative watchdog.

One wonders why all these new bureaucracies are necessary. Surely the executives of the American car companies did a fine job fouling up their enterprises without thousands of Washington bureaucrats, most of whom have never managed a business or met a payroll, helping them push their firms over the brink. Recall also that by the single act of giving billions to Iraq in "agricultural credits," the Bush Administration trade warriors did a great deal of damage to American interests. Will the batallions of bureaucrats now based in the Export-Import Bank, the Overseas Private Investment Corporation, the U.S. Trade Representative's Office, and elsewhere suddenly become competent just because they happen to have their own department?

But isn't national trade policy necessary before we can compete against Japan and Europe? Aren't these competitors constantly beating America up in trade battles? Let's look at the Japanese and European economies.

On January 1, 1993, the economies of the member states of the European Community were supposed to fuse into a single market. The European economies, however, were not a smoothly purring wealth-creating engine: They were sputtering, spitting out the noxious fumes of racism, nationalism, and massive unemployment. Even *Europe*, a publication of the European Community, could not put on a happy face when discussing "Europe 1992."

"There was no dispelling the gloomy atmosphere and uncertainty on the EC horizon," *International Herald Tribune* editor Axel Krause reported in *Europe*'s February issue, "nor denying the absence of rejoicing over the year 1992, which by any measure proved one of the most difficult, tense, and conflictive years in the Community's history."

In a pungent piece in the February *Commentary*, the Hoover Institution's Angelo Codevilla argues that much of the "Euromess" has resulted from voters' rejecting big government. "Within each country," says Codevilla, "people are searching for ways of saying 'no' to politicians of all parties, whom they perceive as really belonging to a single party, that of the ruling bureaucracy—a bureaucracy that takes about half a worker's income and no longer seems able to justify doing it."

During the Cold War, says Codevilla, European politics divided mainly along foreign-policy lines, depending upon whether a party favored or opposed accommodation with the Soviet Union. The major non-socialist parties (the West German and Italian Christian Democrats, the French conservative parties) felt as free to bloat government and give favors to their friends as did their rivals on the left.

When the Soviet Union collapsed, these non-socialist parties lost their raison d'être, and voters began to search for alternatives. All of Europe's leading politicians, says Codevilla, have little support. François Mitterand heads a party that can only count on one-fifth of the French electorate. Britain's John Major "is a colorless man who drifts with the wind." The entire ruling class of Italy appears to be corrupt. Helmut Kohl of Germany "has nothing to offer but more taxes as far as the eye can see." (The March 6 *Economist* reports that Germans are so disgusted with politics that two-thirds of those polled think that their government is incompetent and 40 percent say they will not vote in the 1994 general election.)

Codevilla adds that this European distaste for politics extends to the welfare state. Those who can afford it are backing out of national health-care plans, and parents are realizing that state schools cost more and offer less every year. The rising costs of government have made everyone in Europe poorer, thanks to taxes and regulations that ensure prices twice as high as those in America. The average bureaucrat in Copenhagen or Milan may make $30,000 a year, says

Codevilla, but after his hearty day of regulation, he will take the bus or train home—not because of altruism or ecomindedness, but because on that salary, he cannot afford a car.

This rebellion against the state, writes Codevilla, is the primary reason why many Europeans hold the European Community in low regard. The Eurocrats in Brussels and Strasbourg issue regulations that seem picayune and asinine. The European Community, for example, has declared that only six kinds of apples are fit to sell within its single market and ruled that the European condom must be precisely 15.2 centimeters long, about 6 inches (with no national deviations allowed).

The E.C. also loves to impose tariffs on a product (such as cars or computers) and then decide which favored firms will be allowed to sell it. The resulting system favors those few big companies that can participate in E.C.-approved cartels, restricts entry by outsiders, and ensures that the European Community "has become the perfect source for intrusive, picayune socialist legislation that national parliaments would be loath to pass for fear of public retribution."

In the November *Harvard Business Review*, Andrew Hilton, managing director of Meletai (London) Ltd., observes that even European industrialists are skeptical about the merits of a single market. A survey of 15,000 firms conducted by the German Chamber of Trade and Industry reported that only 8 percent of these companies had considered investing outside Germany, and most of those wanted to set up plants not in the E.C. but in stable, low-cost Central European countries, particularly Hungary and the Czech Republic. A 1992 survey of 324 British firms conducted by KPMG Peat Marwick found that 76 percent of those surveyed "believed that the community's single-market program would have no effect on them."

Even "Euro-conscious" businesses, Hilton says, have found the notion of a single market to be a useless fiction. The British chemical firm ICI, for example, closed its European headquarters in Brussels after only 15 months because it found that there was nothing this branch could do that was not already being done by ICI's existing national divisions. And when Citibank tried to establish a London office to control its European operations, it found that this office could not adequately supervise Citibank's Dublin employees, let alone its staffers in Athens or Madrid.

The principal argument of America's trade warriors is severely flawed. We have little to fear from Japan or Europe since their economies are in far worse shape than ours, and their protectionist policies have stifled growth and made their citizens miserable.

Instead of a single market, Hilton sees that for the indefinite future Europe will be "a group of markets with distinct characteristics." Britain has far more in common with the United States, Canada, or Australia than it does with Portugal. The Danes are much more like the Swedes and Norwegians than they are the Italians. And a banker setting up operations in Greece, where a checkbook is a rare commodity, would conduct her operations in a manner far different from banking in England, which has nearly as many checking accounts as America does.

So Europe, far from being an economic colossus, is a pitiful, helpless giant slowly being strangled by red tape. And Japan, as *The Economist*'s Clive Crook reports in that publication's March 6 issue, is in little better shape.

Japan's economic problems result partly from falling land prices, which have depressed the Japanese economy in much the same way that the savings-and-loan scandals have harmed America. "In 1990," Crook observes, "land prices in Tokyo were so high that the grounds of the Imperial Palace were worth more than all the land in California." But these high prices for property could not be sustained, and when the land bubble burst, the entire Japanese economy began to shrink.

In 1989, the shares on the Japanese stock market were worth ¥511 trillion ($3.6 trillion), or 30 percent more than the shares of all America's stock-issuing companies. In 1992, half this wealth—*nearly $2 trillion*—vanished as stock prices fell. The number of Japanese bankruptcies is not only at an all-time high, but Japanese banks may have up to ¥40 trillion ($330 billion) in unrecoverable debts, which may prolong the Japanese recession indefinitely.

While Japan still has some competitive advantages (efficient firms, high savings rates), Crook argues that the country still must make formidable changes to remain as competitive as it was in the 1980s. Lifetime employment must end, and up to 3 million workers may have to be fired. And Japan's ruling Liberal Democrats, Crook believes, must become more honest—and their opponents should modify their radical views, which currently consist of "the economic judgment of Fidel Castro."

Thus the principal argument of America's trade warriors is severely flawed. We have little to fear from Japan or Europe; their economies are in far worse shape than ours, and their protectionist policies have stifled growth and made their citizens miserable. Moreover, a trade war, warns an editorial in the February 6 *Spectator*, is "a war with no heroes." Should a full-fledged trade war break out, it would be the economic equivalent of World War I—prolonged trench warfare and tens of millions of "casualties" in the unemployment lines.

To win the trade war, America should use the sage advice that Vermont Sen. George Aiken gave during the Vietnam War. The best way for America to win a trade war is to declare victory, go home, and practice free trade.

Contributing Editor Martin Morse Wooster is a visiting fellow at the Capital Research Center.

Lessons of War

BY CATHY YOUNG

Beyond the Culture Wars: How Teaching the Conflicts Can Revitalize American Education By Gerald Graff, New York, W. W. Norton, 214 pages, $19.95

Politics by Other Means: Higher Education and Group Thinking, by David Bromwich New Haven, Conn.: Yale University Press, 257 pages, $30.00

The debate over the politics and standards of American higher education began with a frontal assault by traditionalists—Allan Bloom, Roger Kimball, Dinesh D'Souza—that made "political correctness" a household word. The academic left, stunned by its sudden exposure to the harsh glare of *glasnost*, was rather slow to respond, except in somewhat incoherent invective about fascists and reactionaries.

Now, Gerald Graff, a co-founder of Teachers for a Democratic Society, finally offers the lay audience an intelligent and engaging response to the attacks on the radical academic culture. Intelligent and engaging, however, does not always equal convincing.

The premise of *Beyond the Culture Wars*, summarized in the subtitle, "How Teaching the Conflicts Can Revitalize American Education," is simple enough. Graff, an English professor at the University of Chicago, argues that quarrels over the content and purpose of education—Are the traditional classics "the best which has been thought and said" or merely "privileged texts" by and for white males? Is art the work of individual creative imagination or a socially produced "inscription"?—are clearly a part of today's academy, whether we like it or not. So far, both academic radicals and academic traditionalists have responded by denying any validity to the other side. Instead of this mutual bashing, why not have a dialogue and get the students involved? Why not "teach the conflicts themselves, making them part of our object of study and using them as a new kind of organizing principle to give the curriculum the clarity and focus that almost all sides now agree it lacks"?

Is *Heart of Darkness* a great parable of man or a tale tainted by condescension toward Africans? The author argues that such debates among students can reinvigorate classics, not undermine them.

Far from undermining the vitality of the classics, Graff asserts, such debate can reinvigorate them. He offers an imaginary discussion between an older male professor, "OMP," who complains about his students' indifference to Matthew Arnold's poem "Dover Beach" (in which the poet urges his love to withdraw with him into a private idyll far from the "struggle and flight" of politics), and a young female professor, "YFP," who scorns the poem as "phallocentric discourse" relegating women to the function of consoling pompous males.

Is the poem an expression of universal human yearning, a male fantasy, or neither? Graff's point is that OMP's bored students may actually become interested in "Dover Beach" if they see that the poem is a subject of debate. He suggests that even the vague and bland notion of the "universality" of some values can be brought into sharper focus by challenges that force its defenders to come up with arguments rather than mouth clichés about timeless verities. (Is that really all traditional teachers can do?)

On the face of it, this kind of classroom discussion sounds stimulating and appealing—as is Graff's own description of how, in teaching Joseph Conrad's *Heart of Darkness*, he presents his students with alternate views of the novel as a great, universal parable of man's descent into chaos and primitivism, or as tainted by a European's condescending, dehumanizing attitude toward Africans.

And yet the "Dover Beach" example points to some serious problems with Graff's approach. It implies a belief that he elsewhere seems to disclaim: that one's reading of a work is determined by such characteristics as gender or race. YFP is a woman who "teaches courses in literature by women" and "refuses to forget who she is and where she comes from"—that is, to forget that she is a woman—when reading.

The other side of this coin is the real-life tale, told in *Politics by Other Means: Higher Education and Group Thinking* by Yale University professor David Bromwich, of the female Milton scholar who was warned that her failure to focus on women's issues in literature could seriously jeopardize her chances for tenure, since that was the expectation with which she had been hired. When the woman replied that no such conditions had ever been mentioned, she was told that "in the circumstances so explicit a directive scarcely seemed necessary."

Bromwich's powerful and incisive analysis of the ideological battles sur-

rounding education, published just before *Beyond the Culture Wars*, reads at times like a point-by-point reply to Graff (with whose arguments Bromwich was, of course, familiar). This critique is particularly valuable because Bromwich can hardly be accused of conservatism. Significant portions of his book are devoted to stinging criticism of the Reaganites, especially George Will and William Bennett, much of it reasoned and fair (in spite of an occasional uncharacteristically crude swipe at some right-winger, such as a remark about Robert Bork and his "repellent views").

Thus, Bromwich points out the contradiction between Bennett's embrace of a largely secular Western tradition—classical antiquity, the Renaissance, the Enlightenment—and his insistence on the "Judeo-Christian ethic" as the foundation of American democracy. He also notes that Will, a strong critic of campus speech codes intended to promote racial and gender sensitivity, advocates censorship of pornography to elevate society's moral climate; he and the left-wing thought police "differ only in the choice of sensitivities in whose name they would enforce a selective intolerance."

Yet Bromwich admits, shamefacedly, to "a certain sympathy" with Will's and Bennett's concern about the devaluation of the classics. His aim, however, is to articulate an alternative to the conservatives' defense of established values, a "common sense of liberalism concerning the uses of tradition." To Bromwich, the great books of the past are important because "books which have been tested by a lot of people for a long time seem to me precisely those that teach the most about reading and are likeliest...to foster critical thinking."

He sees such an approach—"to respect tradition even while rejecting authority"—as rooted in the paradox of the very notion of an American tradition. To Americans, the task of preserving our cultural inheritance, which the great conservative Edmund Burke deemed so vital to a society's survival, means "using Burkean means to achieve a non-Burkean end," since our legacy is a political and legal system "made against all Burkean precepts," rooted in rational and consciously held beliefs rather than custom and habit.

Another American paradox is that our shared identity is a commitment to individualism—a legacy Bromwich cherishes deeply (though he is ambivalent, to say the least, about its economic ramifications). What repels him about the contemporary cultural radicalism of race and gender grievance is that, for all its rebellious trappings, it is an ideology of group conformity. He invokes Emerson's celebrated essay "Self-Reliance," tartly noting that "the author was a white Protestant male who came to know...what a sickness group thinking could be for those who were in power. The truths of the essay apply no less to groups that conceive of themselves as out of power and seek a correspondingly surer control over their membership."

Students may end up spending more time discussing ways to interpret literary works than reading and interpreting the works themselves—rather like replacing the evening news with a discussion of how the news should be reported.

This brings us back to what's wrong with Graff's proposal for a "Socratic dialogue" in the classroom between traditional humanists and the ideologues of multiculturalism and radical feminism. The two speak different languages: The former address the students as individuals, the latter as members of groups. In the class that discusses opposite perspectives on "Dover Beach," will the women students be made to feel that if they side with OMP they are being disloyal to their gender?

Bromwich calls the academic radicals "the new fundamentalists," and it may be just as hard to imagine a conversation with them as to imagine a constructive debate between a secular thinker and a religious fundamentalist. In the Socratic dialogue, the most logical argument prevails. But the radical can dismiss an opponent's argument, if not logic itself, by labeling it an instrument of white male privilege (just as the fundamentalist would label it a Satanic ploy), and by making a final appeal to the presumed interests of the oppressed (as the fundamentalist would appeal to the will of God).

There is also the danger that students may end up spending more time discussing ways to interpret literary or philosophical works than reading and interpreting the works themselves—rather like replacing the evening news with a roundtable discussion of how the news should be reported. Anticipating this objection, Graff challenges the bias against critical theory (poststructuralism, deconstructionism, etc.): "Studying literature is never a matter of 'just' reading great texts but always involves a choice of critical vocabularies and theories," whether consciously held or not.

Of course this is true; but the alarm bells should go off when theory gets so complex it takes a professional to understand it. I find it hard to buy Graff's assertion that to the layperson, "tragic vision" is just as incomprehensible as "counterhegemonic discursive practices." Learning is also compromised when, as Bromwich shows, the analysis of interpretive methods almost completely displaces the analysis of actual literature. When theory reigns supreme, either *War and Peace* or a Harlequin romance will do as "texts."

Graff explicitly defends this omnivorousness: "It does not follow that culturally acknowledged great works generate a more substantial, challenging, and interesting critical or pedagogical discourse than do less valued works." (Not inferior, mind you, but merely "less valued.") As proof, he notes that "very little Shakespeare criticism packs the intellectual power of George Orwell's essays on British boys' weeklies, smutty penny post-cards, and cheap detective novels." Yes, but

there's a catch. Orwell's essays are cultural and not literary criticism; had Orwell been asked whether students in literature (not social science) classes should be analyzing the boys' weeklies and detective novels along with Shakespeare, he almost certainly would have scoffed at the idea.

Such sleight-of-hand is rather typical of Graff, despite his efforts to appear fair and equally critical of the closed-mindedness of both conservatives and radicals. Thus, he sees hypocrisy in the fact that "the alleged harassment of Harvard history Professor Stephan Thernstrom by black students was the subject of a sensational cover story for *New York* magazine....But little attention has been given to the Harvard Law School's receipt of $1,645,000 from the [conservative] Olin Foundation for [a] program in law and economics." Well, if we're going to talk about money, what of the millions the Ford Foundation alone pumps into women's studies?

Graff is right to say that reports of the demise of free speech in the universities have been considerably exaggerated. In some instances, his contention that professors who complain of being terrorized by campus radicals are simply irritated by "having to argue their beliefs instead of taking them for granted" may be true. Yet he surely knows that when "a feminist student challenges a teacher's interpretation of Henry James for acceding to a stereotype about women," a teacher who argues his beliefs too vigorously can find himself the target of a sexism charge, which will cost him endless irritation and hours of composing detailed written pleas of innocence.

So, should the universities "teach the conflicts"? The idea leaves Bromwich cold, because it would mean teaching the students current fads rather than enduring questions. There are plenty of debates and disagreements within the "canon" itself—a fact often overlooked because, in line with fashionable groupthink, profoundly different, even antagonistic writers and thinkers are lumped together as white males. What we get, says Bromwich, is "the treatment of several centuries as a solid block of opinion, and...of the present age as a finely differentiated scene of conflict, to which the most significant attention is owed."

Of course college students should learn about battles of ideas. The question is, would you rather have them analyze and discuss the conflict between the ideas of Edmund Burke and those of Tom Paine or the conflict between a professor who believes Burke and Paine should be read for what they have to say about human political and social arrangements and another professor who thinks the writings of both should be scoured for signs of heteropatriarchal Eurocentrism?

Contributing Editor Cathy Young is a writer in Middletown, New Jersey.

The Surviving Segregationist

BY JOHN SHELTON REED

Strom Thurmond and the Politics of Southern Change, by Nadine Cohodas
New York: Simon & Schuster, 575 pages, $27.50

The poet and critic Allen Tate once began to write a biography of Robert E. Lee but abandoned it when he decided that Lee wasn't complicated enough to sustain his interest. With Lee, Tate concluded, what you saw was what you got: a man of duty, untroubled by doubt and apparently by temptation. Nadine Cohodas's political biography of Strom Thurmond presents another sort of marble man, embodying principles, winning elections, and representing his constituents without reflection or second thoughts. The man portrayed in this book has no discernible interior life at all and not even a private life apart from politics. He's not just a marble man, but a hollow one.

That may be accurate. In fact, I suspect it is. But Cohodas's Thurmond doesn't even have any real peculiarities. For a successful mid-century Southern politician, he's strangely colorless. This book is an admirable transcript of the words of Southern politics, but the music is heard only rarely. Cohodas just doesn't seem to be particularly interested in the man himself—either that, or she wasn't tuning the right frequencies. True, Thurmond is no Edwin Edwards or George Wallace, but there are these *stories* about him...

For instance, Cohodas quotes the Clemson college yearbook's assessment of the young Thurmond as a "ladies' man of the 'first water,' " but she doesn't mention that that reputation, mutatis mutandis, has followed him ever since. (At the time of the Clarence Thomas hearings we were told that Thurmond, among other white male senators, "just doesn't get it." Maybe so, but apparently he still tries.)

Cohodas does record Thurmond's penchant for taking young beauty queens to wife (his first young enough to be his daughter; his second young enough to be his granddaughter), and she reproduces a famous *Life* photograph captioned "VIRILE GOVERNOR demonstrates his prowess in the mansion yard day before wedding." (He was standing on his head). But she simply deposits these data with us and moves on briskly to more dignified matters, not pausing to ask whether Thurmond's amorous impulses are the most spontaneous and human thing about the old goat, evidence that he's interested in *something* besides politics, or just another good career move. It's true that Thurmond's tastes have given rise to a good deal of bawdy humor in these parts, but, as another Southern pol once observed, they do love a *man* in the country.

Similarly, the late Lee Atwater told one of his former teachers (a friend of mine) that Thurmond has almost no sense of humor. According to Atwater, though, the senator loves to hear stories of political dirty tricks—the same ones, over and over. He laughs and laughs. This sort of thing makes the man more interesting, if not more sympathetic, and it is absent from this book.

But to say that Cohodas's sketch is one-dimensional is not to say that her account of Thurmond's public life will interest only political junkies. The man has been involved in some of the great events of our time, and his career provides much food for thought—usually depressing thought—about ends and means, motives and unanticipated consequences.

Even if that thought is usually left as an exercise for the reader, Cohodas has done us a service by assembling the raw materials. She gives us one of the best summaries available of the legal and legislative struggle for the civil rights of black Southerners, a struggle from which Thurmond emerged by virtue of his electoral popularity, political agility, and sheer longevity as one of the few survivors on the losing side.

Until 1948, Thurmond's story was one of monotonous political success, with no more than the usual treachery and double-dealing (in fact, probably less than usual). Born into the segregated South of 1902, he went to college at Clemson, where he was an athlete and BMOC. He served briefly as a high-school teacher and coach until, at the age of 26, he was elected county school superintendent. Three years later (having, on the side, studied privately for the bar, passed it, and begun a law practice) he ran successfully for the state senate. After five years in that body, he was elected to a state judgeship. World War II interrupted this steady progression, but within six months of returning to South Carolina Thurmond announced that he was running for governor. He was 44 years old when he took office in 1947, with less than half his life and not much more than a quarter of his career behind him.

Some of Thurmond's most striking attributes were evident from the first. He has always been an indefatigable and incessant campaigner, never missing a chance to shake hands, learning and remembering every name, spending his spare moments writing notes of sympathy and congratulation to constituents. Also consistently evident was his physical and political courage. As a judge he once faced down an armed householder. He was wounded and won a Bronze Star while landing in France on D-Day with the 82nd Airborne. As governor he took firm action against a lynch mob.

Strom Thurmond and his allies gave states' rights a bad name that still lingers.

Ironically, for a South Carolina Democrat in the first half of this century, the young Thurmond was something of a progressive. As late as 1947, he was praising the Truman-Roosevelt record. But within a year, of course, he was running against Truman himself, as the candidate of the States' Rights Party, the "Dixiecrats."

Cohodas carefully examines the evidence and essentially accepts Thurmond's account of his motives. She concludes that he was acting as a genuine conservative, consistently (for a politician) opposed to the extension of federal power into matters reserved by the Constitution to the states. In 1948, of course, many other Southern politicians had no interest in limited government except in defense of white supremacy, but Thurmond has always denied that he was ever a racist and, in a narrow sense, he is apparently correct. As a South Carolina NAACP official put it, "I never thought Strom Thurmond actually hated black people. He just never really needed them."

Whatever his motives, his act of disloyalty put Thurmond in the national Democrats' doghouse for good. Although he ran successfully to fill a vacant Senate seat in 1954 (beating the state organization's handpicked candidate and becoming the first person ever elected to the Senate by a write-in vote), he was doomed by the times and his principles to a stance of perpetual opposition, whatever party was in power. When one of his staffers during the Kennedy-Johnson years was asked if he worked for the government, he replied, "No, I work against the government." Thurmond's career had seemingly topped out at leader of the Southern diehards. No influential assignments, cabinet posts, or vice-presidential nominations for him.

But the man had moves in reserve that no one had suspected. After Lyndon Johnson pushed through the Civil Rights Act of 1964, Thurmond changed parties, in what was seen at the time as an act of daring. Campaigning for his friend and political ally Barry Goldwater, he explained that if Lyndon Johnson was reelected "freedom as we have known it in this country is doomed, and individuals will be destined to lives of regulation, control, coercion, intimidation, and subservience to a power elite who shall rule from Washington." (He got that right, anyway.)

Goldwater lost big, of course, and Democrats sneered about rats swimming to a sinking ship, but four years later the election of Richard Nixon began an era of Republican dominance of the White House and got Thurmond inside the tent. So many of his friends and advisers were in the Nixon administration that some called the White House "Uncle Strom's cabin." The Reagan landslide of 1980 installed Thurmond as chairman of the Senate Judiciary Committee, replacing none other than Ted Kennedy, to the dismay of right-thinking liberals everywhere.

That didn't last, but he's still in the Senate, and still campaigning. (He shook my hand at a stock car race last fall.) Now in his 90s, he's certainly entitled to rest on his laurels, but he just keeps going, and going. One has to suspect that he doesn't know how to do anything else.

Cohodas's portrait of the old man is almost sad. Unintentionally, I suspect, she portrays him as a goofy old duffer handled by savvy staffers who recog-

nize that their jobs and influence depend on his popularity back in the sticks but who labor mightily to keep him from weird acts of self-expression while he's in Washington. Republicans, meanwhile, not knowing what else to do with him, have begun to treat him as a venerable elder statesman. The waning days of the hapless Bush administration saw many strange sights, but none stranger than Thurmond's being awarded the Presidential Medal of Freedom, the first (and presumably the last) segregationist champion to be so honored.

Cohodas is fascinated by the fact that this former Dixiecrat has come to terms with some of the changes he so stoutly opposed, fashioning an accommodation with the new electorate created by the Voting Rights Act of 1965. He has reliably brought home the bacon for his black constituents. (The man may have principles, but he's no fool: He has always been happy to take federal money for South Carolina.)

He has also become responsive to their opinions on other matters. He wouldn't put it this way, but he now treats them as a component of the concurrent majority, at least on issues that directly affect their racial interests. He appointed a black staff member even before more-liberal Southern senators did so, he eventually voted for the Voting Rights Act of 1982 (after laboring mightily to amend some of its more obnoxious features), and he has sponsored legislation to set up National Historically Black Colleges Week (although I observed at the time that the senator has always been in favor of separate black colleges).

Unlike even George Wallace, however, Thurmond has never admitted that he ever did anything wrong. Forced to look back on his defense of segregation, he now says, "The reason I took the position I did was, one, that was the law of South Carolina, the law of my state, and next, it was the thinking of the people I represented." In his mind, he's now defending a different law and representing a more inclusive electorate, that's all.

One consistent thread does link the 1940s to the 1990s. Thurmond continues to oppose federal intervention and activism in most matters. The story is told (not in this book) that once, when Thurmond was explicating the 10th Amendment during a Southern filibuster, Lyndon Johnson turned to another Southern senator and said, "Listen to old Strom. You know, he really believes that shit." Say this for Thurmond: Apparently he really did, and does.

And Thurmond's principles aren't bad ones; the 10th Amendment is one of my favorites, too. But he did our principles a disservice; in fact, he may have dealt them a death blow. State governments that failed to protect the persons and property of black citizens—that even used state power to hold them in subordination—invited the growth of countervailing legislative, bureaucratic, and judicial power at the federal level. Thurmond was a stalwart opponent of that growth, but he has never acknowledged the abuse and neglect that made it almost inevitable.

By their doomed defense of segregation and white supremacy, Thurmond and his allies gave states' rights a bad name that lingers to this day, alienated many who should have joined them in the cause of limited government, and forced men and women who sought only simple justice to expedients that some may live to regret. That's some of that food for depressing thought I mentioned earlier.

John Shelton Reed teaches at the University of North Carolina at Chapel Hill. His latest book is My Tears Spoiled My Aim, and Other Reflections on Southern Culture *(University of Missouri Press).*

First Freedom

BY TOM G. PALMER

Liberty and Nature: An Aristotelian Defense of Liberal Order, by Douglas B. Rasmussen and Douglas J. Den Uyl, La Salle, Ill.: Open Court, 268 pages, $49.95/$24.95 paper

Almost 20 years ago, Robert Nozick began his book *Anarchy, State and Utopia* with the resounding assertion that "individuals have rights, and there are things no person or group may do to them (without violating those rights)." Since then, legions of philosophers have stepped forth to answer the obvious question: Exactly *why* do individuals have rights?

The latest to submit a detailed answer are Douglas Rasmussen and Douglas Den Uyl, both of whom have backgrounds as followers (and exegetes) of the thought of Ayn Rand and are now professors of philosophy at soberly Catholic universities, where discussions of what it means to be a human being (or even what it means just to be) are not laughed out of the faculty lounge. In *Liberty and Nature: An Aristotelian Defense of Liberal Order*, the authors attempt to ground a defense of (classical) liberal values in the tradition of inquiry initiated by Aristotle.

That seems to be quite a challenge, given that Aristotle himself, apart from a few lines critical of Plato's proposals for communism and the abolition of property, was in general either hostile to or unaware of (understandable, given the times) most of the principal elements of classical-liberal political thought, among them: cosmopolitanism, individual rights that can be asserted against the state, freedom of trade and commerce, the distinction between society and the state, pluralism, diversity, and toleration of non-coercive behavior and minorities. Rasmussen and Den Uyl make it clear that they don't intend to defend Aristotle's conclusions about political morality. Rather, they draw upon his overall philosophy for tools of analysis and important insights into human life.

In seeking to generate moral obligation, or to solve the traditional "is-ought" problem, Rasmussen and Den Uyl make the following claims, using Aristotle for inspiration:

1) Man has a nature, and the fundamental distinguishing feature of that nature is his (her) ability to "apprehend the world in conceptual terms."

2) "Remaining in existence as the sort of thing it is is the natural end or function of a being."

3) Therefore, "living rationally or intelligently is the natural end, function, or *ergon* [deed or work] of a human being."

On this they base their claim that "one ought to live in accordance with the requirements of one's nature." The argument so far is more than a bit confusing, because Rasmussen and Den Uyl claim that the obligation to live in accord with one's nature "does not require justification" but that we can "grasp the obligatory character of this ultimate prescriptive premise." If this amounts to saying that there is no demonstrative proof in answer to the person who asks "Why be moral?" a lot of ink was spilled getting there.

What is more fruitful and interesting than the attempt to "grasp" the nature of obligation is their use of Aristotle's concept of *eudaimonia*, or happiness in the sense of living well and fulfilling one's potential for goodness. The section dealing with *eudaimonia*, which they refer to as "flourishing," is the most interesting of the "Aristotelian" sections of the book.

Here they place great stress on what they refer to as "self-directedness" or "autonomy" as an element in the attainment of *eudaimonia*. Aristotle in the *Nicomachean Ethics* put it rather nicely: "It [*eudaimonia*] can be attained through some process of study or effort by all persons whose capacity for virtue has not been stunted or maimed....[I]t is better to be happy as a result of one's own exertions than by the gift of fortune..."

Rasmussen and Den Uyl use this insight of Aristotle's as the foundation for an entire case for recognition of individual rights and private property: first, by substituting "other people" for "fortune"; second, by showing how self-directedness as an essential element of *eudaimonia* requires the ability to interact with physical objects, hence the right to property. (Here they are treading on familiar ground already visited by the classical liberal Wilhelm von Humboldt and the not-so-liberal G. W. F. Hegel, both of whom stressed the role of productive work and interaction with the material world in developing human personality.)

By emphasizing the individuality of human beings Rasmussen and Den Uyl sidestep problems in older natural-law or natural-right traditions of the sort criticized by Karl Popper in *The Open Society and Its Enemies*, according to which, having found the true fulfillment of man, we have only to impose it on everybody else. But, as Rasmussen and Den Uyl argue, "There is no such thing as the flourishing of 'man.' There is only the flourishing of individual men."

By emphasizing the individuality of human beings the authors sidestep problems in older natural-law or natural-rights traditions, according to which, having found the true fulfillment of man, we have only to impose it on everybody else.

This flourishing of individuals as moral beings necessarily requires for each and every one of them that they enjoy self-directedness, for without autonomous action, humans could be "neither praised nor blamed." And in order for each and every one to enjoy self-directedness, they must enjoy a protected sphere of autonomy. This sphere is delimited by the concept and institution of rights, which create "a sphere of freedom" and "moral territory." As the farmer says in Robert Frost's poem, "Good fences make good neighbors," to which Rasmussen and Den Uyl add that individual rights make good fences.

Following up on that is a very useful discussion of why these rights must be basic, universal, negative, and absolute, and just what these requirements amount to. While very valuable, this section did not convince me of one of the authors' most important claims: that "it is true that one 'ought to respect another's basic right(s),' but the reason that restraint is due is not because of what I owe you, but because of my own principled commitment to human flourishing."

In other words, it is good for me that I not take your watch, and not simply (as is more easily demonstrated) good for you. It seemed to me, after several readings, that what Rasmussen and Den Uyl offered in support of this was the claim that basic moral rules must be universal to be truly moral rules, but that seems to be what they promised to demonstrate and not simply to restate.

When they reach the case for rights to property, they make some original contributions to the problem, most notably by applying "Austrian" economic insights to the problems of understanding ownership of resources. Building on Israel Kirzner's studies of entrepreneurship, they argue that resources (or wealth) are not simply given, but that they are brought into being and change with the perceptions, ideas, and plans of human beings. Oil in the ground was not wealth to a 17th-century farmer, but rather an occasional nuisance. It took the inventiveness and active perception of entrepreneurs to convert a nuisance into wealth.

Using this insight, the authors offer a novel answer to the problem of the so-called "Lockean proviso" that requires in acts of original acquisition that "enough and as good" be left for others: "[S]ince property is created or produced through an act of transformation, the Lockean Proviso is moot. For there can never be 'enough and as good' left for others if every action issues in a unique transformation."

Unfortunately, Rasmussen and Den Uyl tend to confuse two very important concepts from two different areas of inquiry: wealth and property. Wealth is an economic concept that refers to something that can generate a stream of (some kind of) in-

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THE**BOOK**CASE

come, but property is a legal concept referring to the protection accorded the acquisition, use, and transfer of scarce goods. Much of one's wealth as a merchant, for example, may be tied up in one's reputation or in an extensive network of contacts, but it is not clear that simply because they are forms of wealth that one's reputation (what others think of one) or one's network (the people whom one knows) can be considered to be property.

Despite many valuable insights, the book's biggest problem is that too many of the steps in the authors' argument are

"There is no such thing as the flourishing of 'man,' " write Rasmussen and Den Uyl. "There is only the flourishing of individual men."

debatable, while the way in which they present their case seems to require that one agree with every step along the way in order to agree with their conclusions. By orienting themselves so much to the ancient natural-law tradition, they miss the main point of the modern natural-law tradition (which includes such venerable figures as Hugo Grotius, Samuel Pufendorf, John Locke, and even David Hume), which was to refute the ever-present skeptics by providing a firm and unchallengeable foundation and progression for the arguments for justice.

This was found, not in an ethics of self-perfection, but in the common recognition that, in Pufendorf's words: "In common with all living things which have a sense of themselves, man holds nothing more dear than himself, he studies in every way to preserve himself, he strives to acquire what seems good to him and to repel what seems bad to him....Men are not all moved by one simply uniform desire, but by a multiplicity of desires variously combined....For these reasons careful regulation and con-

trol are needed to keep them from coming into conflict with each other....in order to be safe, it is necessary for him to be sociable; that is to join forces with men like himself and so conduct himself towards them that they are not given even a plausible excuse for harming him, but rather become willing to preserve and promote his advantages."

This modern natural-law tradition is clearly aimed at responding to the skeptic who points to the variety of social orders all over the world and demands a justification for any one of them. The very same skeptic, it seems to me, will point out that an argument that rests on a metaphysical biology a few thousand years out of date (or at least subject to strong objections from contemporary biology) is less than convincing and that having to assent to this or that controversial interpretation of Aristotle in order to proceed to the conclusion lessens the likelihood of intellectual conviction.

Rasmussen and Den Uyl realize that their approach differs greatly from most classical-liberal political theory, as they clearly note in their conclusion: "The arguments of the preceding chapters indicate our agreement with modern political philosophy that social cooperation does not depend upon the realization of moral perfection. But instead of denying the meaningfulness of a concept like moral perfection, and instead of seeing liberty and natural rights as merely a mechanism for solving the problem of conflict, we have sought to give liberty moral significance by showing that the natural right to liberty is a social and political condition necessary for the possibility of moral perfection."

In this light, *Liberty and Nature* would be best appreciated, not as a substitute for the arguments of Grotius, Pufendorf, Locke, and Hume, but rather as a useful supplement to them, offering yet another reason for valuing liberty: "It is better to be happy as a result of one's own exertions than by the gift of fortune." Or through the coercive intervention of others.

Tom G. Palmer is the editor of Humane Studies Review.

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CLINTONGUE

BY THOMAS W. HAZLETT

A lot of ingrates are whining about the fiscal policies of our new president, but not me. I've never done so well. Prior to his inaugural, I doubt if I would have been categorized as "super-rich," even by the widest definition. But with Mr. Clinton's new tax plan, overlaid on his campaign pledge to raise taxes only for the highest-income Americans, I easily qualify for fat-cat status. That's upward mobility in Mr. Clinton's America.

During Campaign Mode, entrée to the elite circle of "the wealthiest Americans" required proof of $200,000 in earnings per annum. Then the Clintonites assumed office. Now taxes will go up only for Americans making more than $30,000 in "economic income." As opposed to what human beings think of as income (i.e., cash), Mr. Clinton's definition quietly includes fringe benefits, such as employer-paid health insurance, and the implicit yield from owned assets (like the rent you could charge for your house if you vacated it—which, given the portentous tidal wave of taxes, you may have to). This accounting bonus adds up to about a third of your "economic income."

All of which allows us to calibrate a CCF (Clinton Credibility Factor): 20,000 to 200,000, or 1 to 10. Approximately 10 percent of what Bill Clinton tells you will actually be true, if present trends continue.

Clintongue is an American dialect reminiscent of the distinctive twang of high school debate competition. Here, skilled tacticians concentrate not on convincing open minds that scrutinize arguments but on overwhelming the opposition with a torrent of alleged facts (debating "points") cutely connected and summed via rhetorical flair. In this Advanced Newspeak for Fast-Talking Experts, the Clinton-Carvillites excel by virtue of a pathetically weak field. The press isn't paying much attention to the substance of Clintonomics, the Republicans are brain dead, and Ross Perot is just happy to be on national TV without having to answer for Adm. Stockdale.

So it is in the budget debate. President Clinton's budget was pure, unadulterated VDTS (Vintage Democrat Tax & Spend). Clinton had to bust the notorious 1990 budget deal in order to free up spending for his so-called $473-billion, five-year deficit reduction. (He had grandly announced $704 billion in "savings," but this was pared by 30 percent as soon as someone at the White House found a calculator with an active Duracell in it—the CBO can still find only $406 billion, incidentally.) If you're totally confused, you're following the logic precisely.

By the administration's own forecasts, they will slash the "on-budget" deficit (excluding Social Security, whose surplus we're supposed to be tucking away for the Baby Boom retirement fund) from $307 billion in 1994 to $305 billion in 1998. (Hold your applause, please.) And this counts on massive defense-spending reductions, including the political OUCH! of base closings, and on the Soviet Union's cooperation in staying dead.

Nonetheless, this wisp of a "deficit reduction" plan has stolen the facts and set the agenda for every part of the debate on economic policy. The healthiest productivity measure of Clintonomics is in its artfully executed leaps of logic, winning the economic debate with the most absurd presidential economic platform since the Bush presidency (assuming it had one).

As "Tax & Spend!" loses its ring as a rallying cry, "Grow & Invest!" seems absolutely inspired. And it can be provided without any new taxes—simply "contributions." The Clintonites may well lift the entire U.S. GDP to 8-percent annual growth based purely on the robust recovery they are personally staging in the relabeling sector: More money for welfare/pensions/job training/prisons is "investing in our people." Subsidies for business are "investing in jobs." Funding bloated government make-work projects, "investing in infrastructure." In Clintongue, the only form of consumption is when you, you '80s throwback, hog your income to buy something for yourself. That deprives us of *contributions*, depletes the *infrastructure*, *disinvests* in our people, and *shrinks* the economy!

The "economic stimulus package" is even more indicative of the power of Clintongue. This "jobs program" is everything that is out of whack with the federal budget process: We're $300 billion away from a balanced budget, but somehow we find $X million for Congressman Heavylifter's municipal pork, er, park, er, "investment in local infrastructure." Even that billionaire cracker Ross Perot sniffed this fiscal ugly, nosing his way to the obvious truth (unremarked upon in the press) that an incremental $16-billion boondoggle would have a hard time creating real jobs if the $1.5 trillion already squandered hadn't yet performed the alleged macro magic. Still, amazingly, Ross (joined by the Republicans) condemned the scheme as simply too little, too late. It won't be but "a small bump" said Ross, who suggests we leave the present recovery unmolested.

Clinton's gotcha! Wasteful government spending ain't "trickle down"—no, that's what private spending does—it's economic *stimulus*, job-creating economic *growth*. Clinton's just rolled his midget challengers, who evidently concur that raiding private investment markets to borrow $16 billion will create more economic oodles than will be flushed out of private businesses, which must contract by the identical $16 billion. In Clintongue, "the first serious plan to deal with the deficit" becomes "shop 'til you drop." Score one for the master debaters of Clintonomics. Why couldn't Mondale think of that?

Contributing Editor Thomas W. Hazlett teaches economics and public policy at the University of California, Davis.

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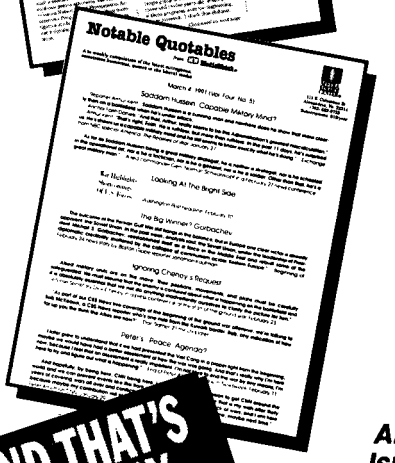

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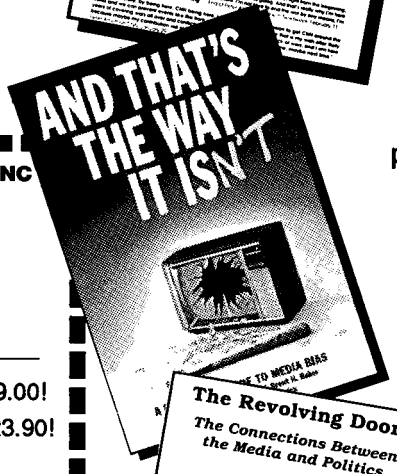

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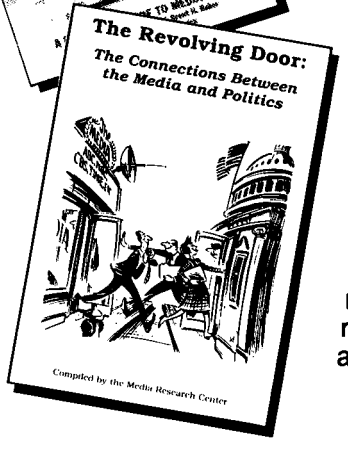

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